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CHAPTER Mhp 100 DEFINITIONS, ORGANIZATION AND PUBLIC INFORMATION

PART Mhp 101 PURPOSE AND SCOPE

Mhp 101.01 <u>Purpose and Scope</u>. The rules of this title implement the statutory responsibilities of the New Hampshire board of mental health practice under RSA 330-A which, include, but are not limited to:

(a) Protecting the public receiving mental health services not limited by geographic boundary or technology used;

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- (b) The licensing of psychologists, pastoral psychotherapists, independent clinical social workers, clinical mental health counselors and marriage and family therapists;
 - (c) The development of ethical and other professional standards to be followed by licensees;
 - (d) Investigating allegations of misconduct and imposing disciplinary sanctions on licensees; and
- (e) The development of continuing professional education requirements and other requirements for demonstrating professional competence for the renewal or reinstatement of licensees.

Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93, EXPIRED: 7-23-99

New. #7623, eff 1-10-02, EXPIRED: 1-10-10

New. #9852, eff 1-25-11

PART Mhp 102 DEFINITIONS

Mhp 102.01 <u>Terms Used</u>. As used in these rules, the following terms shall have meanings indicated:

- (a) "Administrative assistant" means the board's staff director, a person with delegated authority from the board to perform administrative and clerical functions for the board;
 - (b) "Board" means the New Hampshire board of mental health practice created under RSA 330-A;
 - (c) "Licensee" means a person who possesses a current license pursuant to RSA 330-A;
- (d) "Scope of practice" means assessment, diagnosis, consultation, treatment recommendations and treatment of a person with a diagnosis or a concern specified in the current edition of the Diagnostic and Statistical Manual of the American Psychiatric Association (DSM) and the Diagnostic Coding Manual (ICD-9-CM) in accordance with RSA 330-A:1; and
- (e) "Independent or private mental health practice" means practice which is not done as an employee of an employer who assumes full financial responsibility for the actions of that employee and furnishes the employee with a W-2 form pursuant to US Internal Revenue Services regulations.

Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93, EXPIRED: 7-23-99

New. #7623, eff 1-10-02, EXPIRED: 1-10-10

New. #9852, eff 1-25-11

PART Mhp 103 AGENCY ORGANIZATION

Mhp 103.01 <u>Composition of the Board</u>. The board shall consist of 8 members appointed by governor and council and shall meet the eligibility requirements of RSA 330-A:3.

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<u>Source.</u> (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93, EXPIRED: 7-23-99

New. #7623, eff 1-10-02, EXPIRED: 1-10-10

New. #9852, eff 1-25-11

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Mhp 103.02 <u>Staff</u>. The board shall employ an administrative assistant and such other staff as is necessary to conduct the board's daily operations and to fulfill its statutory duties.

<u>Source.</u> (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93, EXPIRED: 7-23-99

New. #7623, eff 1-10-02, EXPIRED: 1-10-10

New. #9852, eff 1-25-11

Mhp 103.03 Office Hours, Office Location, Mailing Address and Telephone.

(a) The board's office shall be:

117 Pleasant Street Concord, NH 03301

- (b) The board's office shall be open to the public during normal business hours.
- (c) The board's telephone number shall be (603) 271-6762.

Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93, EXPIRED: 7-23-99

New. #7623, eff 1-10-02, EXPIRED: 1-10-10

New. #9852, eff 1-25-11

Mhp 103.04 <u>Meetings</u>. The board shall generally meet monthly except August and at such additional times as shall be called for by the chairperson or by the vote of the board.

Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93, EXPIRED: 7-23-99

New. #7623, eff 1-10-02, EXPIRED: 1-10-10

New. #9852, eff 1-25-11

Mhp 103.05 Committees.

- (a) A committee, appointed by the board to research, and make recommendations on matters within the statutory authority of the board, shall include at least one board member who shall serve as chair.
 - (b) When expressly authorized by the board, the authority of a committee shall include:
 - (1) The retention of voluntary assistance from qualified non-board members; and
 - (2) The retention of paid advisors or consultants.
- (c) Committees may make recommendations to the board, but shall not take final action on behalf of the board.

Source. #9852, eff 1-25-11 (formerly Mhp 103.06)

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PART Mhp 104 PUBLIC INFORMATION

Mhp 104.01 Record of Board Actions. Minutes shall be kept of board meetings and of official actions taken by the board pursuant to RSA 91-A:3, RSA 91-A:4 and RSA 91-A:5. Board minutes of actions that are not confidential under RSA 91-A:3 shall be public records pursuant to RSA 91-A:4 and shall be available for inspection as required by RSA 91-A:3.

Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93, EXPIRED: 7-23-99

New. #7623, eff 1-10-02, EXPIRED: 1-10-10

New. #9852, eff 1-25-11

Mhp 104.02 <u>Custodian of the Records</u>. The administrative assistant shall be the custodian of the board's records and shall respond to requests to examine those portions of the board's records which are subject to public inspection or which may otherwise be properly examined by the person requesting access.

Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93, EXPIRED: 7-23-99

New. #7623, eff 1-10-02, EXPIRED: 1-10-10

New. #9852, eff 1-25-11

Mhp 104.03 <u>Copies of Records</u>. Persons desiring copies of board records shall identify as particularly as possible the information being sought and agree to pay a copying fee of \$.10 per page. If records are requested that contain both public and confidential information, the confidential information shall be deleted and the remaining information be provided.

Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93, EXPIRED: 7-23-99

New. #7623, eff 1-10-02, EXPIRED: 1-10-10

New. #9852, eff 1-25-11

Mhp 104.04 Access to Board Rules. Pursuant to RSA 541-A, the board files rules with the director of legislative services. Persons may receive rules by calling or writing the board. Any person may petition the board in writing to adopt, amend or repeal a rule and may appear in person to inspect the rules or obtain photocopies.

<u>Source.</u> (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93, EXPIRED: 7-23-99

New. #7623, eff 1-10-02, EXPIRED: 1-10-10

New. #9852, eff 1-25-11

APPENDIX

| RULE | STATUTE IMPLEMENTED |
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| Mhp 101 | RSA 330-A:1 and RSA 541-A:16, I(a) |
|---------|---|
| Mhp 102 | RSA 541-A:7 and RSA 541-A:16, I(a) |
| Mhp 103 | RSA 330-A:3, RSA 330-A:4 and RSA 541-A:16, I(a) |
| Mhp 104 | RSA 91-A:4 and RSA 541-A:16, I(a) |

CHAPTER Mhp 200 PRACTICE AND PROCEDURE

PART Mhp 201 INTRODUCTION AND DEFINITIONS

Mhp 201.01 <u>Purpose</u>. The board shall conduct various proceedings for the purpose of acquiring sufficient information to make fair and reasoned decisions on matters within its statutory jurisdiction, including decisions on applications for licensure and complaints filed against licensees. These rules shall be construed to secure the just, efficient and accurate resolution of all board action.

Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93, EXPIRED: 7-22-99

New. #7624, eff 1-10-02, EXPIRED: 1-10-10

New. #9853-A, eff 1-25-11

Mhp 201.02 <u>Definitions</u>. The following terms shall have the meaning indicated when used in this chapter:

- (a) "Adjudicative proceeding" shall be defined as in RSA 541-A:1 (I).
- (b) "Administrative Prosecutions Unit (APU)" means the administrative prosecutions unit of the Attorney General's office.
- (c) "Board investigator" means a board member who is responsible for overseeing the activities of the professional conduct investigators.
- (d) "Communication of alleged misconduct" means a written statement received by the board suggesting professional misconduct of a licensee under RSA 330-A:27, II or Mhp 500.
- (e) "Complaint" means a communication of alleged misconduct containing information that, as the board shall determine, if true, could violate ethical codes, administrative rules or the law.
 - (f) "Consent decree" means a final and binding order that is issued by agreement of all parties.
- (g) "Corrective action" means settlement agreements between the board and a licensee whereby the licensee agrees to make certain changes in his or her practice to undertake clinical supervision and/or to take some recommended program in exchange for the board's ultimate dismissal of the complaint.
 - (h) "Data" means all information relevant to the investigation, included but not limited to:
 - (1) Oral or written descriptions;
 - (2) Reports;
 - (3) Maps;
 - (4) Charts;
 - (5) Drawings;

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- (6) Photographs;
- (7) Audio or video recordings;
- (8) Computer programs; or
- (9) Computer printouts.
- (i) "Disciplinary proceeding" means an adjudicative proceeding commenced by the board for the purpose of examining a complaint against a licensee.
 - (j) "File" means to place a document in the actual possession of the board.
- (k) "Hearing counsel" means an individual appointed by the board to prosecute licensee misconduct allegations and denials of applications for licensure to the board.
- (l) "Investigation" means a gathering of data by the board concerning matters within its jurisdiction.
- (m) "Letter of concern" means a written letter from the board drawing the licensee's attention to specific acts or omissions that could place the licensee at risk of future disciplinary action. A letter of concern is non-disciplinary and is sent to the licensee following a complaint and/or investigation.
- (n) "Mediation" means an informal, confidential process facilitated by a qualified neutral party, and intended to resolve conflicts by agreement.
- (o) "Motion" means any request by a party to an existing proceeding for an order or relief relating to that proceeding.
 - (p) "Order" means a document issued by the board:
 - (1) Establishing procedures to be followed in an adjudicative or nonadjudicative proceeding;
 - (2) Granting or denying a petition or motion;
 - (3) Requiring a person to do, or to abstain formerly doing, something; or
 - (4) Determining a person's rights to a license or other privilege established by RSA 330-A.
- (q) "Petition" means any request to the board seeking an order or any other action for relief, but does not include a license application or a motion.
- (r) "Presiding officer" means the board member or other individual to whom the board has delegated authority to preside over some or all aspects of an adjudicative or other proceeding.
- (s) "Professional Conduct Investigator(PCI)" means a trained licensed mental health practitioner who, as an agent of the board, under the guidance of the board investigator discovers facts and makes reports to the board.
- (t) "Report of Investigation" (ROI)" means report of information, facts and data gathered for the board.
- (u) "Rulemaking" means the statutory procedures for formulating agency rules set forth in RSA 541-A:3.

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(v) "Settlement agreement" means a written order of the board acknowledging consent of the licensee to enter stipulated facts and imposing disciplinary actions consented to by the licensee to resolve certain allegations of licensee misconduct.

Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93, EXPIRED: 7-22-99

New. #7624, eff 1-10-02, EXPIRED: 1-10-10

New. #9853-A, eff 1-25-11

PART Mhp 202 APPEARANCES BEFORE BOARD

Mhp 202.01 Appearances and Representation.

- (a) A party or the party's representative shall file an appearance that includes the following information:
 - (1) A brief identification of the matter;
 - (2) A statement as to whether or not the representative is an attorney and if so, whether the attorney is licensed to practice in New Hampshire; and
 - (3) The party or representative's daytime address and telephone number.
 - (b) Any changes to the information in (a) above shall be in writing.
- (c) The board shall, after providing notice and opportunity for hearing, prohibit an individual from acting as a representative upon a finding that the individual has repeatedly violated rules or orders of the board, willfully disrupted board proceedings, or made material misrepresentations to the board or a party in a board proceeding.
 - (d) Any prohibition issued under (c), above, shall apply only to the board's proceedings.
 - (e) Nothing in this section shall be construed to permit the unauthorized practice of law.

<u>Source.</u> (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93, EXPIRED: 7-22-99

New. #7624, eff 1-10-02, EXPIRED: 1-10-10

New. #9853-A, eff 1-25-11

PART Mhp 203 TIME PERIODS

Mhp 203.01 <u>Computation of Time</u>. Any time period specified in this chapter shall begin with the day following the act, event, or default, and shall include the last day of the period, unless it is Saturday, Sunday, or state legal holiday, in which event the period shall run until the end of the next day which is not a Saturday, Sunday, or state legal holiday. When the period prescribed or allowed is less than 7 days, intermediate Saturdays, Sundays, and state legal holidays shall be excluded formerly the computation.

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Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93, EXPIRED: 7-22-99

New. #7624, eff 1-10-02, EXPIRED: 1-10-10

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New. #9853-A, eff 1-25-11

Mhp 203.02 <u>Change in Allowed Times and Granting Continuances</u>. Except where a time period is fixed by statute, the board shall, upon motion or upon its own initiative, enlarge or shorten the time provided for the filing of any document, or advance or postpone the time set for any oral hearing, prehearing conference, or other activity, and grant further continuances if it would be more likely to promote the fair, accurate and efficient resolution of the issues pending before the board than would adherence to a particular rule or procedure.

Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93, EXPIRED: 7-22-99

New. #7624, eff 1-10-02, EXPIRED: 1-10-10

New. #9853-A, eff 1-25-11

Mhp 203.03 <u>Limitations</u>. A motion to change time shall not be filed within 3 days of the event in question.

<u>Source.</u> (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93, EXPIRED: 7-22-99

New. #7624, eff 1-10-02, EXPIRED: 1-10-10

New. #9853-A, eff 1-25-11

PART Mhp 204 FILING AND SERVICE OF DOCUMENTS

Mhp 204.01 Filing of Documents with the Board.

- (a) A document shall be considered filed when it is actually received at the board's office in Concord and is facially in conformity with the board's rules.
- (b) A document, which is facially in violation of the board's rules, shall not be accepted for filing. Such submissions shall be returned to the sender without prejudice to subsequent acceptance if the deficiencies are corrected and the document is refiled within any applicable time period.
- (c) All correspondence, filings or communications intended for the board shall be addressed to the board's office in care of its administrative assistant.
- (d) All petitions, motions, exhibits, memoranda or other documents filed in connection with a request for board action shall be filed with an original and 10 copies unless the board directs otherwise.
 - (e) Notwithstanding (d) above, only a single copy shall be filed of:
 - (1) Transmittal letters;
 - (2) Requests for public information;
 - (3) License applications; and
 - (4) A communication of alleged misconduct against licensees.

<u>Source.</u> (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93, EXPIRED: 7-22-99

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New. #7624, eff 1-10-02, EXPIRED: 1-10-10

New. #9853-A, eff 1-25-11

Mhp 204.02 Subscription and Veracity of Documents.

- (a) All communications of alleged misconduct, petitions, motions and replies filed with the board shall be signed by the proponent of the document or, if the party appears by a representative, by the representative.
 - (b) Licensure applications shall be signed only by the applicant.
 - (c) The signature on a document filed with the board shall constitute a certification that:
 - (1) The signer has read the document;
 - (2) The signer is authorized to file it;
 - (3) To the best of the signer's knowledge, information, and belief, there are good grounds to support it; and
 - (4) The document has not been filed for purposes of delay or harassment.

Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93, EXPIRED: 7-22-99

New. #7624, eff 1-10-02, EXPIRED: 1-10-10

New. #9853-A, eff 1-25-11

Mhp 204.03 Service of Documents.

- (a) Communications of alleged misconduct against licensees shall be filed with the board in accordance with Mhp 503.02. The board shall notify the licensee of said filing unless such information would jeopardize:
 - (1) The safety of a party; or
 - (2) The process of a criminal investigation.
- (b) Applications, petitions for rulemaking and petitions for declaratory rulings shall be filed with the board without service upon other persons.
- (c) All objections, motions, replies, memoranda, exhibits or other documents filed in connection with a request for board action shall be served by the proponent upon all parties or persons who have filed appearances with the board to be heard on a matter by:
 - (1) Depositing a copy of the document in the United States mails, first class postage prepaid, addressed to the last address given to the board by the person being served, no later than the day the document is filed with the board; or
 - (2) Delivering a copy of the document in hand on or before the date it is filed with the board.
- (d) Notices, orders, decisions or other documents issued by the board in connection with requests for board action shall be served by the board upon all parties or their representatives on a matter by:

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- (1) Depositing a copy of the document, first class postage prepaid, in the United States Mail, addressed to the most recent address given to the board by the party being served; or
- (2) Delivering a copy of the document in hand to the party.
- (e) When a party's representative has filed an appearance, service shall be upon the representative.
- (f) Except for exhibits distributed at a prehearing conference or hearing, every document filed with the board, shall be accompanied by a certificate of service, signed by the person making service, attesting to the method and date of service, and the persons served.

Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93, EXPIRED: 7-22-99

New. #7624, eff 1-10-02, EXPIRED: 1-10-10

New. #9853-A, eff 1-25-11

PART Mhp 205 PETITIONS AND MOTIONS

Mhp 205.01 Petitions.

- (a) Applications for licensure shall not be considered petitions
- (b) Petitions shall contain:
 - (1) The name and address of the petitioner;
 - (2) The name and address of the petitioner's representative, if any;
 - (3) A concise statement of the facts which warrant the relief requested formerly the board;
 - (4) A description of the specific relief requested from the board;
 - (5) A citation to any statutes, rules, orders, or other authority which entitles the petition to the relief requested; and
 - (6) A signature and date as required by Mhp 204.02(a).
- (c) In situations in which a petition is served upon a third person, a reply to that petition shall contain:
 - (1) The name and address of the respondent;
 - (2) The name and address of the representative of the respondent, if any;
 - (3) A statement admitting or denying, or stating that the respondent lacks sufficient knowledge to admit or deny each fact alleged in the petition pursuant to Mhp 205.01(b)(3);
 - (4) A statement admitting or denying the authority identified by the petitioner pursuant to Mhp 205.01(b)(5);
 - (5) A concise statement of any additional or different facts which warrant the board acting in the manner requested by the respondent;
 - (6) A citation to any statutes, rules, orders or other authority, not identified in the petition, having bearing upon the subject matter of the petition;

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- (7) A description of the action which the respondent wishes the board to take; and
- (8) The signature and date required by Mhp 204.02(a).
- (d) Replies shall be filed within 10 days from the date of the petition unless otherwise ordered by the board.
- (e) Any fact contained in the petition which is not denied in the reply, shall be deemed admitted by the respondent. A statement that the respondent lacks sufficient knowledge to admit or deny shall be treated as a denial. The petitioner shall be presumed to deny all allegations in the reply, and no response shall be permitted to the reply.

Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93, EXPIRED: 7-22-99

New. #7624, eff 1-10-02, EXPIRED: 1-10-10

New. #9853-A, eff 1-25-11

Mhp 205.02 Motions and Objections.

- (a) Motions and objections shall be in writing unless the nature of the relief requested requires oral presentation upon short notice.
 - (b) All motions shall state clearly and concisely:
 - (1) The purpose of the motion;
 - (2) The relief sought by the motion;
 - (3) The statutes, rules, orders, or other authority authorizing the relief sought by the motion;
 - (4) The facts claimed to constitute grounds for the relief requested by the motion; and
 - (5) The signature and dated required by Mhp 204.02(a).
 - (c) Objections to motions shall state clearly and concisely:
 - (1) The defense of the party filing the objection;
 - (2) The action which the party filing the objection wishes the board to take on the motion;
 - (3) The statutes, rules, orders, or other authority relief upon in defense of the motion;
 - (4) Any facts which are additional to or different from the facts stated in the motion; and.
 - (5) The signature and date required by Mhp 204.02(a).
- (d) Motions shall be decided upon the writings submitted. Repetitious motions shall not be submitted.
- (e) Objections to motions shall be filed within 10 days after the filing of the motion. Failure to object to a motion within the time allowed shall constitute a waiver of objection to the motion.

Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93, EXPIRED: 7-22-99

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New. #7624, eff 1-10-02, EXPIRED: 1-10-10

New. #9853-A, eff 1-25-11 (formerly Mhp 205.03)

PART Mhp 206 NONADJUDICATORY INVESTIGATIONS

Mhp 206.01 Informal Investigations.

- (a) Notwithstanding any other provision of this title, the board, within the limits of its authority, and acting through its members, officers and employees, or through independent contractors, shall make inquiry of any person and otherwise gather data, and prepare reports describing the data obtained whenever:
 - (1) It receives data which leads it to believe that a violation of any statute administered by the board, or of any rule of the board, has occurred, or is likely to occur; or
 - (2) It desires to obtain data for any other lawful purpose.
- (b) Informal investigations shall include all techniques and methods for gathering information which are appropriate to the circumstances of the case, including:
 - (1) Requests for additional information from the complainant;
 - (2) Requests for a release of relevant records belonging to or under the control of the petitioner; and
 - (3) Face-to-face meetings with potential witnesses and interested persons.

Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93, EXPIRED: 7-22-99

New. #7624, eff 1-10-02, EXPIRED: 1-10-10

New. #9853-B, eff 1-25-11 (formerly Mhp 210.01)

Mhp 206.02 Formal Investigations.

- (a) Formal investigations shall be commenced for the purpose of obtaining documents, recording testimony, and otherwise gathering data relevant to matters within the board's jurisdiction when the board believes this technique would be more effective than an informal investigation.
- (b) Formal investigations shall be commenced by the issuance of an order of investigation containing:
 - (1) The statutory or regulatory authority for the investigation;
 - (2) The identity of the persons, or class of persons, which are the subject of the investigation;
 - (3) The general nature of the conduct being investigated;
 - (4) Any statutes or rules, which include codes of ethics and the client's bill of rights, alleged to have been, or about to be violated;
 - (5) The identity of the investigating officer or committee;
 - (6) The date upon which the investigating officer shall report his or her findings and recommendations to the board;

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- (7) Any special authority conferred upon the investigating officer, including the authority to issue subpoenas on behalf of the board; and
- (8) Other provisions relevant to the issues under investigation and the time, place and manner in which the investigation is to be conducted.

<u>Source.</u> (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93, EXPIRED: 7-22-99

New. #7624, eff 1-10-02, EXPIRED: 1-10-10

New. #9853-B, eff 1-25-11 (formerly Mhp 210.02)

PART Mhp 207 ADJUDICATIVE PROCEEDINGS

Mhp 207.01 Commencement of Proceedings.

- (a) The board shall commence an adjudicative proceeding by issuing a notice of hearing to the parties at least 15 days before the first scheduled hearing date or first prehearing conference.
 - (b) The notice commencing an adjudicative proceeding shall:
 - (1) Specify the time, place and nature of any hearing;
 - (2) Summarize the subject matter of the proceeding and identify the issues to be resolved;
 - (3) Specify the legislative authority for the proposed action and identify any applicable board regulations;
 - (4) Specify the date by which, and the address where, appearances or motions by parties or representatives shall be filed;
 - (5) Specify the date, time, and location of an initial prehearing conference or dates for an oral hearing;
 - (6) Identify the presiding officer for the proceeding if other than the chairperson of the board;
 - (7) Identify any special procedures to be followed;
 - (8) Identify any confidentiality requirements applicable to the preceding; and
 - (9) Specify that each party has the right to have an attorney represent him or her at the party's own expense;
 - (10) Contain such other information or attachments as are warranted by the circumstances of the case, including, but not limited to:
 - a. Orders consolidating or severing issues in the proceeding with other proceedings; and
 - b. Orders directing the production or exchange of documents; and
 - (11) A stenographic recording of the hearing shall be taken and preserved.

Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93, EXPIRED: 7-22-99

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New. #7624, eff 1-10-02, EXPIRED: 1-10-10

New. #9853-A, eff 1-25-11 (formerly Mhp 206.02)

Mhp 207.02 Methods of Proceeding - Generally.

- (a) If the parties agree, the board shall proceed as follows:
 - (1) Where facts material to the subject matter of the proceeding are in dispute but personal observation of the witnesses or the immediate opportunity for cross-examination of witnesses is not required, the proceeding shall, to that extent, consist of the submission of affidavits and memoranda; and
 - (2) Where no facts material to the subject matter of the proceeding are in dispute the proceeding shall, to that extent, be limited to the submission of memoranda which argue the conclusions the parties wish the board to draw from the undisputed facts.
- (b) If the parties do not agree to one of the methods of proceeding in (a) above, the matter shall proceed to an adjudicatory hearing.
- (c) Oral argument, other than a brief opening and closing statement, shall be permitted only when requested in a written motion, which demonstrates a substantial need for such a procedure. Written argument in the form of legal briefs or memorandum shall be permitted subject to such filing schedules as the board shall direct by oral or written order.
- (d) The presiding officer shall schedule supplemental argument or hearing, or to otherwise reopen the record at any time prior to the issuance of a final order in a proceeding.

Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93, EXPIRED: 7-22-99

New. #7624, eff 1-10-02, EXPIRED: 1-10-10

New. #9853-A, eff 1-25-11 (formerly Mhp 206.11)

Mhp 207.03 Intervention.

- (a) Motions to intervene shall state with particularity:
 - (1) The petitioner's interest in the subject matter of the hearing;
 - (2) Why the interests of the parties and the orderly and prompt conduct of the proceeding would not be impaired; and
 - (3) Any other reasons why the petitioner should be permitted to intervene.
- (b) Motions to intervene shall be granted if the petitioner has a substantial interest in the proceeding, the petitioner requested intervention in accordance with these rules, and if granting intervention will not prejudice a party or unduly delay the board's proceedings.
- (c) Once granted leave to intervene, an intervener shall take the proceeding as he or she finds it and no portion of the proceeding shall be repeated because of the fact of intervention.

Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93, EXPIRED: 7-22-99

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New. #7624, eff 1-10-02, EXPIRED: 1-10-10

New. #9853-A, eff 1-25-11 (formerly Mhp 206.04)

Mhp 207.04 <u>Consolidation</u>. Adjudicative proceedings, which involve the same, or substantially related issues, shall be consolidated for hearing or decision, or both, when fairness, accuracy and efficiency would be served by such an action. Consolidation shall be ordered in response to a timely motion formerly a party or on the board's own initiative.

Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93, EXPIRED: 7-22-99

New. #7624, eff 1-10-02, EXPIRED: 1-10-10

New. #9853-A, eff 1-25-11 (formerly Mhp 209.01)

Mhp 207.05 <u>Severance</u>. The board shall sever one or more issues from a proceeding and dispose of those issues in another proceeding when doing so would materially promote the fairness, accuracy and efficiency of the proceeding. Severance shall be ordered in response to a timely motion from a party or on the board's own initiative.

Source. #9853-A, eff 1-25-11 (formerly Mhp 209.02)

Mhp 207.06 Continuances.

- (a) Any party or intervenor may make an oral or written motion that a hearing be delayed or continued to a later date or time.
- (b) A motion for a delay or a continuance shall be granted if the presiding officer determines that there is good cause to do so.
 - (c) Good cause shall include:
 - (1) The unavailability of parties, intervenors, representatives of parties or intervenors, or witnesses necessary to conduct the hearing;
 - (2) The likelihood that a settlement will make the hearing or its continuation unnecessary; and
 - (3) Any other circumstances that demonstrate that a delay or continuance would assist in resolving the case fairly.
- (d) If the later date, time and place are known when the hearing is being delayed or continued, the information shall be stated on the record. If the later date, time and place are not known at that time, the presiding officer shall as soon as practicable issue a written scheduling order stating the date, time and place of the delayed or continued hearing.

Source. #9853-A, eff 1-25-11

Mhp 207.07 Prehearing Conferences.

(a) At any time following the commencement of an adjudicative proceeding, the presiding officer, upon motion, or upon his or her own initiative, shall request the parties to attend one or more prehearing conference when such a conference would aid in the disposition of the proceeding.

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- (b) Matters which can be addressed at a prehearing conference shall include:
 - (1) The distribution of exhibits and written testimony, if any, to the parties;
 - (2) Opportunities and procedures for simplification of the issues;
 - (3) Possible amendments to the pleadings;
 - (4) Opportunities and procedures for settlement;
 - (5) Possible admissions of fact and authentication of documents to avoid unnecessary proof;
 - (6) Possible limitations on the number of witnesses and possible limitations on the scheduling of witnesses;
 - (7) Possible changes to the standard procedures which would otherwise govern the proceeding; and
 - (8) Other matters which might contribute to the prompt and orderly conduct of the proceeding.
- (c) If any person requests a transcript of the recording of a hearing, the board shall:
 - (1) Cause a transcript to be prepared; and
 - (2) Upon receipt of payment for the cost of the transcription, provide a copy of the transcript to the person making the request.

Source. #9853-A, eff 1-25-11 (formerly Mhp 206.06)

Mhp 207.08 <u>Discovery and Disclosure</u>.

- (a) The board shall provide for the disclosure of any investigative report or other unprivileged information in the possession of the board, which is reasonably related to the subject matter of the proceeding.
- (b) Parties shall attempt to agree among themselves concerning the mutual exchange of relevant information. If these efforts prove unsuccessful, a party wishing to initiate discovery against another party, shall, by motion, seek leave to do so and shall identify the exact type of discovery requested.
- (c) Discovery shall be ordered when the parties cannot adequately address specific relevant factual issues at the time fixed for the presentation of evidence, and addressing these issues at a subsequent time would place the requesting party at a material disadvantage.
- (d) At least 5 days before the hearing the parties and any intervenor shall provide to the other parties and intervenors:
 - (1) A list of all witnesses to be called at the hearing together with a brief summary of their testimony;
 - (2) A list of all documents and exhibits to be offered as evidence at the hearing; and
 - (3) A copy of each document or exhibit.

Source. #9853-A, eff 1-25-11 (formerly Mhp 206.07)

Mhp 207.09 Subpoenas.

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- (a) Subpoenas for the attendance of witnesses or the production of evidence in investigations or adjudicative proceedings shall be issued upon the order of the board or pursuant to authority delegated by the board to its staff or to a committee by specific resolution or order, or by rule.
- (b) In adjudicative proceedings, a party requesting the board to authorize a subpoena shall attach a copy of the proposed subpoena to its motion. If the motion is granted, the requesting party shall be responsible for the service of the subpoena and payment of any applicable witness fee and mileage expenses.
- (c) Motions to quash or modify a subpoena shall be entertained from the person to whom the subpoena is directed, if filed within 7 days after service of the subpoena, or one day before the date specified in the subpoena for compliance therewith, whichever is later. If the board denies the motion to quash or modify, in whole or in part, the person to whom the subpoena is directed shall comply with the subpoena or any modification thereof, within the balance of time prescribed in the subpoena or within 3 days from the date of the board's order, whichever is later, unless the board expressly provides additional time to comply.
- (d) Should a person fail to comply with a subpoena issued pursuant to this section, the board shall take one or more of the following actions:
 - (1) Impose sanctions specific to any pending proceeding or investigation, including, but not limited to, entry of a default judgment as to some or all of the pending issues which is adverse to the noncompliant party;
 - (2) Institute a separate investigation against any non-compliant individual who is subject to the board's jurisdiction; or
 - (3) Continue with the proceeding and defer all, or part, of the subpoena enforcement issues.

Source. #9853-A, eff 1-25-11 (formerly Mhp 206.08)

Mhp 207.10 Evidence.

- (a) Receipt of evidence shall be governed by the provisions of RSA 541-A:33.
- (b) The evidentiary privileges recognized by the law of New Hampshire, but not the N.H. Rules of Evidence, shall apply to proceedings under this chapter.
 - (c) All data which will reasonably assist the board arrive at the truth shall be admissible.
- (d) Oral testimony shall be allowed unless the board, upon a finding that written evidence would be more efficient and would not result in material prejudice, orders that some or all of the evidence be submitted in written form.
- (e) If the board officially notices a fact, it shall so state, and permit any party, upon timely request, the opportunity to show the contrary.
 - (f) Witnesses appearing before the board shall testify under oath or affirmation.

Source. #9853-A, eff 1-25-11 (formerly Mhp 206.09)

Mhp 207.11 <u>Inquiry by Presiding Officer or Board Members</u>. The presiding officer, board members or board advisors recognized by the presiding officer shall make such inquiry of witnesses, parties or counsel, as they believe necessary to develop a sound record for decision.

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Source. #9853-A, eff 1-25-11 (formerly Mhp 206.12)

Mhp 207.12 Burden of Proof.

- (a) The party asserting the affirmative of a proposition shall have the burden of proving the truth of that proposition by a preponderance of the evidence.
- (b) Without limiting the generality of paragraph (a), above all moving parties and all petitioners shall have the burden of persuading the board that their motion or petition should be granted.

Source. #9853-A, eff 1-25-11 (formerly Mhp 206.10)

Mhp 207.13 Failure of a Party to Attend or Participate in the Hearing.

- (a) A party shall be in default if the party:
 - (1) Has the overall burden of proof;
 - (2) Has been given notice in accordance with Mhp 207.01 (a); and
 - (3) Fails to attend the hearing.
- (b) If a party is in default under (a) above, the matter shall be dismissed unless there is just cause shown for failure to attend. Just cause shall include illness, accident, the death of a family member, or other circumstance beyond the control of the party.
- (c) If a party who does not have the overall burden of proof fails to attend the hearing after having been given notice in accordance with Mhp 207.01(a), the testimony and evidence of any other parties or intervenors shall be received and evaluated.

Source. #9853-A, eff 1-25-11

Mhp 207.14 Proposed Findings of Fact and Conclusions of Law.

- (a) Parties may submit proposed findings of fact or conclusions of law.
- (b) The presiding officer shall direct any party to submit proposed findings of fact or conclusions of law. If such an order is issued, individual rulings upon such proposed findings or conclusions shall be included as part of any proposed or final decision or order issued.

Source. #9853-A, eff 1-25-11 (formerly Mhp 206.13)

Mhp 207.15 Decisions.

- (a) A presiding officer shall not participate in making a decision unless he or she personally heard the testimony in the case, unless the matter's disposition does not depend on the credibility of any witness and the record provides a reasonable basis for evaluating the testimony.
- (b) All board members deciding the case shall be in attendance for all of the parties' testimony, and any other testimony on the issue of credibility, in order to effectively assess the issue of credibility.

Source. #9853-A, eff 1-25-11

Mhp 207.16 Motion for Reconsideration or Rehearing.

(a) Final adjudicative orders of the board, and orders denying petitions for declaratory rulings or rulemaking, shall take effect on the date they are served upon the parties pursuant to Mhp 204.03 (d).

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- (b) Motions for reconsideration or rehearing shall be filed within 30 days after service of a final adjudicative order. The motion shall state, with particular clarity, points of law or fact that the board has overlooked or misapprehended and shall contain such argument in support of the motion as the movant desires to present.
- (c) No answer to a motion for reconsideration shalle required, but any answer or objection filed shall be delivered to the board within 10 days following notification of the motion to reconsider.
- (d) The filing of a motion for reconsideration shall not stay any order of the board unless, upon specific written request, the board has ordered such a stay.

Mhp 207.17 Reconsideration on the Board's Own Motion. Within the time frame specified in Mhp 207.16 (b), the board, on its own motion may reconsider, revise or reverse any final order. No reconsideration by the board shall occur unless the board finds that a relevant rule, point of law or fact has been overlooked or misapprehended. If, upon reconsideration, the board takes action based upon the existing record, prior notice shall not be given to the parties. If further argument or data should be considered before making such an order, the board shall provide the parties with notice and an opportunity to be heard before any final revision is made in the board's previous order.

Mhp 207.18 <u>Records of Decisions</u>. The board shall keep a final decision in its records for at least 5 years following its dates of issuance, unless the director of the division of records management and archives of the department of state sets a different retention period pursuant to rules adopted under RSA 5:40.

Mhp 207.19 Stay of Board Orders.

- (a) Board actions shall be stayed only in response to a specific motion requesting a stay or by the board acting on its own motion.
- (b) A motion for stay shall be considered only if it is filed within the time period for requesting reconsideration specified by Mhp 207.16 (b), and shall demonstrate good cause sufficient to warrant the stay of an action by the New Hampshire Superior Court.
- (c) A stay of board action shall be specifically requested. The mere filing of a motion for reconsideration shall not operate as a stay of any order, but a motion for stay may be combined with a motion for reconsideration.

Source. #9853-A, eff 1-25-11 (formerly Mhp 208.03)

PART Mhp 208 PRESIDING OFFICER, WITHDRAWAL AND WAIVER OF RULES

Mhp 208.01 Presiding Officer, Appointment: Authority.

- (a) A presiding officer shall as necessary:
 - (1) Regulate and control the course of a hearing;
 - (2) Facilitate an informal resolution of the subject matter of the hearing;
 - (3) Administer oaths and affirmations;

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- (4) Request the board to issue subpoenas to compel the attendance of witnesses at hearings or the production of documents, if so authorized by law;
- (5) Receive relevant evidence at hearings and exclude irrelevant, immaterial or unduly repetitious evidence;
- (6) Rule on procedural requests, including adjournments or postponements, at the request of a party or on the presiding officer's own motion;
- (7) Question any person who testifies;
- (8) Cause a complete record of any hearing to be made, as specified in RSA 541-A:31, III (f); and
- (9) Take any other action consistent with applicable statutes, rules and case law necessary to conduct the hearing and complete the record in a fair and timely manner.

Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93, EXPIRED: 7-22-99

New. #7624, eff 1-10-02, EXPIRED: 1-10-10

New. #9853-A, eff 1-25-11 (formerly Mhp 207.01)

Mhp 208.02 Withdrawal of Presiding Officer.

- (a) Upon his or her own initiative or upon the motion of any party, a presiding officer shall, for good cause withdraw from any hearing.
 - (b) Good cause shall exist if a presiding officer or agency official:
 - (1) Has a direct interest in the outcome of a proceeding, including, but not limited to, a financial or family relationship with any party;
 - (2) Has made statements or engaged in behavior which objectively demonstrates that he or she has prejudged the facts of a case; or
 - (3) Personally believes that he or she cannot fairly judge the facts of a case.
- (c) Mere knowledge of the issues, the parties or any witness shall not constitute good cause for withdrawal.

Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93, EXPIRED: 7-22-99

New. #7624, eff 1-10-02, EXPIRED: 1-10-10

New. #9853-A, eff 1-25-11 (formerly Mhp 207.02)

Mhp 208.03 <u>Waiver or Suspension of Rules by Presiding Officer</u>. The presiding officer, upon his or her own initiative or upon the motion of any party, shall suspend or waive any requirement or limitation imposed by this chapter upon reasonable notice to affected persons when the proposed waiver or suspension appears to be lawful, and would be more likely to promote the fair, accurate and efficient resolution of issues pending before the board than would adherence to a particular rule or procedure.

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Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93, EXPIRED: 7-22-99

New. #7624, eff 1-10-02, EXPIRED: 1-10-10

New. #9853-A, eff 1-25-11 (formerly Mhp 207.03)

PART Mhp 209 RULEMAKING

Mhp 209.01 <u>Procedure For Adopting Rules</u>. A board rule, or any amendment or repeal thereof, shall be governed by RSA 541-A.

Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93, EXPIRED: 7-22-99

New. #7624, eff 1-10-02, EXPIRED: 1-10-10

New. #9853-A, eff 1-25-11 (formerly Mhp 211.01)

Mhp 209.02 <u>Petition for Rulemaking</u>. A request for the commencement of a proceeding to adopt, amend, or repeal a rule shall be submitted in the form of a petition which contains the following information:

- (a) A statement of the petitioner's interest in the proposed rulemaking action;
- (b) The text of the proposed rule or a statement of the particular results intended by the petitioner to flow formerly the implementation of the proposed rule;
- (c) If the petitioner proposes to amend or repeal an existing rule, an identification of the particular rule sought to be amended or repealed; and
- (d) Any data or argument the petitioner believes would be useful to the board in deciding whether to commence a rulemaking proceeding.

Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93, EXPIRED: 7-22-99

New. #7624, eff 1-10-02, EXPIRED: 1-10-10

New. #9853-A, eff 1-25-11 (formerly Mhp 211.02)

Mhp 209.03 Disposition of Petition for Rulemaking.

- (a) Within 30 days of the submission of a petition, the board shall either deny the petition by written order, stating its reasons for the denial, or shall initiate rulemaking proceedings, by written order, in response to the petition and in accordance with Mhp 209.04.
 - (b) Any denial shall be based upon a finding by the board that:
 - (1) The petition for rule or amendment or repeal of an existing rule would not be consistent with established standards of practice of the board;
 - (2) The board lacks rulemaking authority over the issues in the petition; or
 - (3) The petition is contrary to legislative intent.

Source. #9853-A, eff 1-25-11 (formerly Mhp 211.03)

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Mhp 209.04 <u>Commencement of Rulemaking Proceeding</u>. The board shall commence a rulemaking proceeding by following the procedures set forth in RSA 541-A:3 et seq.

Source. #9853-A, eff 1-25-11 (formerly Mhp 211.04)

PART Mhp 210 PUBLIC COMMENT HEARINGS

Mhp 210.01 <u>Purpose</u>. The purpose of this part is to provide uniform procedures for the conduct of public comment hearings held pursuant to RSA 541-A:11.

<u>Source.</u> (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93, EXPIRED: 7-22-99

New. #7624, eff 1-10-02, EXPIRED: 1-10-10

New. #9853-A, eff 1-25-11

Mhp 210.02 Public Access and Participation.

- (a) Public comment hearings shall be open to the public, and members of the public shall be entitled to testify, subject to the limitations of Mhp 210.03.
 - (b) People who wish to testify shall be asked to write on the speaker's list:
 - (1) Their full names and addresses; and
 - (2) The names and addresses of organizations, entities or other persons whom they represent, if any.
- (c) Written comments, which may be submitted in lieu of or in addition to oral testimony, shall be accepted for 10 days after the adjournment of a hearing or after the adjournment of a postponed or continued hearing.

Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93, EXPIRED: 7-22-99

New. #7624, eff 1-10-02, EXPIRED: 1-10-11

New. #9853-A, eff 1-25-11

Mhp 210.03 <u>Limitations on Public Participation</u>. The board's chair or other person designated by the board to preside over a hearing shall:

- (a) Refuse to recognize for speaking or revoke the recognition of any person who:
 - (1) Speaks or acts in an abusive or disruptive manner;
 - (2) Fails to keep comments relevant to the proposed rules that are the subject matter of the hearing; or
 - (3) Restates more than once what he or she has already stated; and
- (b) Limit presentations on behalf of the same organization or entity to no more than 3, provided that all those representing such organization or entity may enter their names and addresses into the record as supporting the position of the organization or entity.

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Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93, EXPIRED: 7-22-99

New. #7624, eff 1-10-02, EXPIRED: 1-10-11

New. #9853-A, eff 1-25-11

Mhp 210.04 Conduct of Public Comment Hearings.

- (a) Public comment hearings shall be attended by a quorum of the board.
- (b) Public comment hearings shall be presided over by the board chair or a board member knowledgeable in the subject area of the proposed rules who has been designated by the board to preside over the hearing.
 - (c) The chair or other person presiding over a hearing shall:
 - (1) Call the hearing to order;
 - (2) Identify the proposed rules that are the subject matter of the hearing and provide copies of them upon request;
 - (3) Cause a recording of the hearing to be made;
 - (4) Recognize those who wish to be heard;
 - (5) If necessary, establish limits pursuant to Mhp 210.03;
 - (6) If necessary to permit the hearing to go forward in an orderly manner, effect the removal of a person who speaks or acts in a manner that is personally abusive or otherwise disrupts the hearing;
 - (7) If necessary, postpone or move the hearing; and
 - (8) Adjourn or continue the hearing.
 - (d) A hearing shall be postponed in accordance with RSA 541-A:11, IV when:
 - (1) The weather is so inclement that it is reasonable to conclude that people wishing to attend the hearing will be unable to do so;
 - (2) The board chair or other person designated by the board to preside over the hearing is ill or unavoidably absent; or
 - (3) Postponement will facilitate greater participation by the public.
- (e) A hearing shall be moved to another location in accordance with RSA 541-A:11, V when the original location is not able to accommodate the number of people who wish to attend the hearing.
- (f) A hearing shall be continued past the scheduled time or to another date in accordance with RSA 541-A:11, III when:
 - (1) The time available is not sufficient to give each person who wishes to speak a reasonable opportunity to do so; or

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(2) The capacity of the room in which the hearing is to be held does not accommodate the number of people who wish to attend and it is not possible to move the hearing to another location.

<u>Source.</u> (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93, EXPIRED: 7-22-99

New. #7624, eff 1-10-02, EXPIRED: 1-10-11

New. #9853-A, eff 1-25-11

PART Mhp 211 DECLARATORY RULINGS

Mhp 211.01 Petitions for Declaratory Rulings.

- (a) Any interested person may request a declaratory ruling from the board on how a statute, rule or order applies to a specific situation.
- (b) The request pursuant to (a) above shall be made by filing a petition with the board, which contains:
 - (1) The exact ruling being requested;
 - (2) The statutory and factual basis for the ruling, including any supporting affidavits or memoranda of law; and
 - (3) The name and address of the petitioner.

Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93, EXPIRED: 7-22-99

New. #7624, eff 1-10-02, EXPIRED: 1-10-11

New. #9853-A, eff 1-25-11 (formerly Mhp 212.01)

Mhp 211.02 Action on Petitions for Declaratory Rulings.

- (a) The board shall issue a declaratory ruling, in writing, within 60 days of receipt of a petition.
- (b) A copy of each declaratory ruling shall be:
 - (1) Filed with the director of legislative services;
 - (2) Sent to the petitioner by first class mail; and
 - (3) Filed with the board.

<u>Source.</u> (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93, EXPIRED: 7-22-99

New. #7624, eff 1-10-02, EXPIRED: 1-10-11

New. #9853-A, eff 1-25-11 (formerly Mhp 212.02)

PART Mhp 212 WAIVER OF SUBSTANTIVE RULES

Mhp 212.01 Petitions for Waiver.

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- (a) The board shall entertain petitions to waive or suspend any rule by filing an original and 10 copies of a petition pursuant to Mhp 205.01(b) which clearly identifies the rule in question and sets forth specific facts and arguments which support the requested waiver.
 - (b) Petitions for waivers of substantive rules shall address:
 - (1) Whether adherence to the rule would cause the petitioner hardship;
 - (2) Whether the requested waiver is necessary because of any neglect or misfeasance on the part of the petitioner;
 - (3) Whether waiver of the rule would injure third persons; and
 - (4) Other good cause for waiving the rule.
- (c) If examination of the petition reveals that other persons would be substantially affected by the proposed relief, the board shall require service of the petition on such persons and advise them of their right to reply to the petition pursuant to Mhp 205.01(c).
- (d) The petitioner shall provide such further information or participate in such evidentiary or other proceedings as shall be ordered by the board after reviewing the petition and any replies received.
- (e) The board shall initiate a waiver of a substantive rule upon its own motion by providing affected parties with notice and an opportunity to be heard, and issuing an order which finds that good cause has been shown.
- (f) For the purposes of this section, good cause shall be deemed to exist if, at a minimum, the petitioner has demonstrated that:
 - (1) Adherence to the rule would cause the petitioner hardship;
 - (2) Waiver of the rule would be consistent with the statutes and rules of the board;
 - (3) Waiver of the rule would not injure third persons; and
 - (4) Waiver is necessary due to factors outside the control of the petitioner.

<u>Source.</u> (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93, EXPIRED: 7-22-99

New. #7624, eff 1-10-02, EXPIRED: 1-10-11

New. #9853-B, eff 1-25-11 (formerly 213.01)

PART Mhp 213 EXPLANATION OF ADOPTED RULES

- Mhp 213 .01 Requests for Explanation of Adopted Rules. Any interested person may, within 30 days of the final adoption of a rule, request a written explanation of that rule by making a written request to the board including:
 - (a) The name and address of the individual making the request: or
- (b) If the request is that of an organization or other entity, the name and address of such organization or entity and the name and address of the representative authorized by the organization or entity to make the request.

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Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93, EXPIRED: 7-22-99

New. #7624, eff 1-10-02, EXPIRED: 1-10-11

New. #9853-B, eff 1-25-11

Mhp 213.02 <u>Contents of Explanation</u>. The board shall, within 90 days of receiving a request in accordance with Mhp 213.01, provide a written response which:

- (a) Concisely states the meaning of the rule adopted;
- (b) Concisely states the principal reasons for and against the adoption of the rule in its final form; and
- (c) States, if the board did so, why the board overruled any arguments and considerations presented against the rule.

Source. #9853-B, eff 1-25-11

APPENDIX

| RULE | STATUTE IMPLEMENTED |
|---------------------|---|
| | |
| Mhp 201.01 - 201.02 | RSA 330-A:28, RSA 330-A:29 and RSA 541-A:16, I(b) |
| Mhp 202 | RSA 541-A:30-a, III(b) |
| Mhp 203 | RSA 541-A:30-a, III(f) |
| Mhp 204 | RSA 541-A:30-a, III(a) |
| Mhp 205.01 – 205.02 | RSA 330-A:29 and RSA 541-A:16 I (b) |
| Mhp 206.01 – 206.02 | RSA 330-A:28, I |
| Mhp 207 | RSA 541-A:16, I (b)(2) |
| Mhp 208 | RSA 330-A:29 and RSA 541-A:16, I (b) |
| Mhp 209 | RSA 330-A:10 and RSA 541-A:16, I (b)(3) |
| Mhp 210.01 - 210.02 | RSA 541-A:16 I (d) |
| Mhp 210.03 - 210.04 | RSA 330-A:28, I |
| Mhp 211.01 | RSA 541-A:16, I (d) |
| Mhp 211.02 | RSA 541-A:16, I(c) |
| Mhp 212 | RSA 541-A:22, IV |
| Mhp 213 | RSA 541-A:16, I(d) |

CHAPTER Mhp 300 LICENSE AND REGISTRATION REQUIREMENTS, APPLICATIONS AND FEES

PART Mhp 301 APPLICATION REQUIREMENTS

Mhp 301.01 <u>Definitions</u>.

- (a) "Applicant" means a mental health professional on whose behalf an application has been filed.
- (b) "Candidate for licensure" means a mental health professional, not licensed, who is receiving post-graduate supervision in New Hampshire in order to meet the licensing requirements.

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Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93; EXPIRED: 7-22-99

New. #7625, eff 1-10-02, EXPIRED: 1-10-10

New. #9854, eff 1-25-11

Mhp 301.02 Candidates for Licensure.

- (a) Prior to beginning supervision, candidates for licensure shall provide, or cause to be provided a proposed supervisory plan on a form provided by the board, documenting:
 - (1) Candidate information including:
 - a. Name;
 - b. Residence and business addresses and telephone numbers;
 - c. Type of license candidate will pursue;
 - d. Names of undergraduate and graduate schools;
 - e. Type of degrees granted;
 - f. Date degrees were granted;
 - g. Name and address of employing agency; and
 - h. Title of candidate at the employing agency;
 - (2) Post graduate clinical supervisor information including:
 - a. Name;
 - b. Business address;
 - c Business telephone number;
 - d Profession;
 - e. Degrees;
 - f. Professional license and license number;
 - g. The length of time the supervisor has held a professional license;
 - h. Employing agency;
 - i. Title;
 - i. Starting date of supervision;
 - k. Proposed completion date of supervision;
 - 1. Description of the frequency and length of individual face-to-face supervision;
 - m. A brief description of current supervisory obligations, including the number of individuals supervised and the extent of the supervision; and

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- n. Goals and objectives of supervision, which shall include assessment, diagnosis, intervention, specific code of ethics to be followed, and cross-cultural issues:
- (3) A written agreement between the candidate and post-graduate supervisor, indicating that:
 - a. The candidate training and supervision shall be pursuant to an employment relationship, which shall provide monetary compensation;
 - b. There shall be an identifiable licensed mental health professional responsible for the training and supervision of the candidate;
 - c. The post graduate clinical supervisor has held a license to practice mental health for a minimum of 2 years prior to the date the supervision is to commence;
 - d. The supervisor shall assume professional and legal responsibility for the candidate; and
 - e. The supervisor shall notify the board in writing if supervisor ceases to supervise and assume professional responsibility.
- (b) An official graduate transcript shall be attached to the "Candidate for licensure: supervision agreement".
- (c) All "Candidate for licensure: supervision agreements" shall be accompanied by the applicable fee as set forth in Mhp303.01 (f).
- (d) Pursuant to RSA 330-A:22 supervision hours shall be credited to the candidate after the supervision agreement is approved by the board. Before becoming effective, each Candidate for licensure: supervision agreement shall be approved by the board if all the criteria of Mhp 301.02 (a), (b), and (c) are met.

Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93; EXPIRED: 7-22-99

New. #7625, eff 1-10-02, EXPIRED: 1-10-10

New. #9854, eff 1-25-11 (formerly Mhp 301.05)

Mhp 301.03 Application Process.

- (a) Persons wishing to obtain licensure to engage in mental health practice in New Hampshire shall apply to the board by submitting the following:
 - (1) An application on a form provided by the board, which contains the information specified by Mhp 301.04;
 - (2) Supporting documents required of the applicant, as specified in Mhp 301.04; and
 - (3) The application review fee as required by Mhp 303.01(a).
 - (b) The application form shall:
 - (1) Be typewritten or legibly printed;
 - (2) Have all sections complete or designated as not applicable to the applicant; and

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- (3) Be signed by the applicant.
- (c) Any application form which is illegible, has incomplete sections, or is not signed, shall be returned to the applicant.
- (d) An application shall be considered to be on file with the board on the date when the board has received:
 - (1) A fully completed application form;
 - (2) All required supporting documentation specified in Mhp 301.04; and
 - (3) Proof that the applicant's check has been deposited and cleared, if applicable.
- (e) Within 60 days of the date the application is on file with the board, the board shall request, if necessary, additional information or documentation needed to clarify the application or any materials related to the application.
- (f) The board shall approve or deny the application within a reasonable time not to exceed 120 days from:
 - (1) The date the application is on file with the board; or
 - (2) The date of the response to a request pursuant to Mhp 301.03 (e).
- (g) If the application is denied, the applicant shall be provided an opportunity to request a hearing for reconsideration pursuant to Mhp 207.16 on the deficiency issues identified by the board. Any such request for a hearing shall be submitted to the board within 30 days from the date of the board's notification of conditional denial.
- (h) If, within 30 days of the board's notification of denial, a request for a hearing is not made by the application, the application shall be dismissed.

<u>Source.</u> (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93; EXPIRED: 7-22-99

New. #7625, eff 1-10-02, EXPIRED: 1-10-10

New. #9854, eff 1-25-11 (formerly Mhp 301.06)

Mhp 301.04 <u>Application Form</u>. Each applicant shall provide the following on, or with, a form provided by the board:

- (a) Name, including any previously used names that might appear on supporting documentation;
- (b) Residence and business addresses and telephone numbers;
- (c) Date of birth;
- (d) Social Security Number;
- (e) Gender information;
- (f) A 2" x 2" passport quality photo taken within 90 days of the date on the application;
- (g) Official transcript of colleges and universities the applicant attended, dates of attendance, and degrees, if any, received;

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- (h) Documentation whether applicant has previously taken the examination required by Mhp 302.05 or Mhp 302.06, Mhp 302.10, Mhp 302.15, Mhp 302.19 or Mhp 302.23;
- (i) Documentation from the entity administering the exam or it's designees of a passing score as follows:
 - (1) For psychologists the Examination for the Professional Practice of Psychology;
 - (2) For pastoral psychotherapists the National Pastoral Counselor Examination for Pastoral Psychotherapists;
 - (3) For independent clinical social workers the Association of Social Work Boards clinical level;
 - (4) For clinical mental health counselors the National Clinical Mental Health Counselor Examination administered by the National Board of Certified Counselors; and
 - (5) For marriage and family therapists the National Examination in Marital and Family Therapy of the Association of Marital and Family regulatory boards.
 - (j) Written essays demonstrating:
 - (1) The professional practices in which the applicant has competence and the academic and experiential methods by which the applicant developed each of these competencies;
 - (2) The applicant's understanding of how the scope of professional practice is expanded specifying the specific techniques by which the applicant will acquire new professional skills and the means by which the applicant will engage in continuing professional education;
 - (3) The applicant's ability to understand and solve 5 ethical problems, which the applicant may already have encountered or may, in the future, encounter in their professional practice, as follows:
 - a. Clearly state the ethical problem;
 - b. Cite the specific professional ethical principles the applicant is applying from their profession's code of ethics as required by Mhp 501.02 (a);
 - c. Clearly articulate the critical thinking by which the applicant would work toward resolution of the problem; and
 - d Provide a comprehensive statement of the applicant's resolution of the problem.
 - (4) Knowledge of issues of cultural diversity affecting client assessment and treatment;
 - (5) Knowledge of procedures and mechanisms for interdisciplinary collaboration among mental health professionals;
 - (6) Knowledge of how records will be managed in the event of impairment or death of the practitioner in both an organization and private practice setting; and
 - (7) For pastoral psychotherapist, a brief description of the applicant's concept of the "pastoral psychotherapist."

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with Mhp 301.02;

(k) Signed Candidate for Licensure/Supervisory Agreement approved by the board in accordance

| (1) Sumr | nary of supervised clinical experience form, including: |
|-----------|---|
| (1) | Applicant's name; |
| (2) | Address; |
| (3) | Supervision history including: |
| | a. Date; |
| | b. Facility; |
| | c. Supervisor's name; |
| | d. Total hours of face-to-face supervision; and |
| | e. Total hours of clinical experience; |
| (4) | Total hours of client contact for marriage and family therapists; and |
| (5) | Applicant's signature; |
| (m) Resi | ume; |
| (n) Conf | irmation of post-graduate supervision, including: |
| (1) | Supervisor's name and address; |
| (2) | Applicant's title at the time of supervision; |
| (3) | Dates of supervised clinical experience; |
| (4) | Number of hours per week of face-to-face supervision; and |
| (5) | Description of candidate duties; |
| (o) For p | osychology licensure confirmation of internship including: |
| (1) | Name of internship program; |
| (2) | Address of internship program; |
| (3) | Dates the applicant was in the program; |
| (4) | Total hours of internship program; |
| (5) | Date internship was completed; |
| (6) | Number of hours per week face-to-face supervision was provided; |
| (7) | Name, degree and title of applicant's primary supervisor; |

(8) Information regarding full or provisional approval of program;

(9) Information regarding APA approval;

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| | (10) Number of interns in training; and |
|--|---|
| | (11) Signature of supervisor; |
| (p) Verification of licensure from another state or jurisdiction inc | |
| | (1) Applicant's name; |
| | (2) Applicant's address; |

(4) Phone number;

(3) Jurisdiction of issue;

- (5) Date of issue;
- (6) License/certification number; and
- (7) Signature and date;
- (q) Three professional reference forms completed by persons familiar with the applicant's clinical work, including:
 - (1) Professional relationship to applicant;
 - (2) Length of time known by applicant;
 - (3) Title of applicant's position;
 - (4) Applicant's specialties;
 - (5) Description of applicant's duties and responsibilities;
 - (6) Certification of applicant's good character;
 - (7) Endorsement of applicant; and
 - (8) Signature and license title of reference;
 - (r) Disclosure, and explanation where applicable, of the following information:
 - (1) Whether any malpractice claim has been made against the applicant within the previous 6 years, regardless of whether a lawsuit was filed in relation to the claim;
 - (2) If the applicant has any complaints pending against a license or certificate in any state or jurisdiction, and if so, the details of the complaint;
 - (3) If the applicant has ever been denied a certificate or license they are applying for, and if so the name of the denying board, the date of denial and the reasons for denial;
 - (4) If the applicant has ever been convicted of a felony or misdemeanor that has not been previously annulled, and, if so, the name of the court, the details of the offense, the date of conviction and the sentence imposed; and
 - (5) If the applicant has ever had or currently has a mental illness or other disorder which impaired her or his ability to practice mental health counseling and if so, the treatment received and the outcome of such treatment;

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- (s) A statement that the applicant acknowledges that the provision of false information in the application shall result in denial of the application;
- (t) The applicant's signature on a statement, which shall declare that the information and documentation is true, accurate, complete and unaltered; and
- (u) A letter verifying satisfactory completion of Clinical Pastoral Education (CPE) required in Mhp 302.09 (d) for pastoral psychotherapists.

Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93; EXPIRED: 7-22-99

New. #7625, eff 1-10-02, EXPIRED: 1-10-10

New. #9854, eff 1-25-11 (formerly Mhp 301.03)

Mhp 301.05 Application Process for Those Licensed in Another State.

- (a) Providing the requirements in the state of the current license meet the same standard as those required for licensure in New Hampshire, persons who wish to apply for a license as a psychologist, pastoral psychotherapist, independent clinical social worker, clinical mental health counselor or marriage and family therapist in New Hampshire, and are already licensed in another state shall follow the procedures in Mhp 301.03 or provide specific documentation from another state licensing board which shall include documentation that they have met all requirements as outlined in Mhp 301.04.
- (b) Persons who wish to apply for a license as a psychologist and are already licensed in another state shall:
 - (1) Submit an application as required in Mhp 301.04(a)-(t);
 - (2) Pass the examinations required in Mhp 302.05 or Mhp 302.06;
 - (3) Meet the educational requirements in Mhp 302.02;
 - (4) Meet the coursework requirements in Mhp 302.03;
 - (5) Meet the supervision requirements in Mhp 302.04; and
 - (6) Submit the fee required in Mhp 303.01(a).
- (c) Persons who wish to apply for a license as a psychologist and hold a current Certificate of Professional Qualification in Psychology (CPQ) issued by the Association of State and Provincial Psychology Boards shall:
 - (1) Submit an application as required in Mhp 301.04(a)-(g);
 - (2) Submit evidence of a current CPQ or verifiable documentation of licensure entitled to reciprocity; and
 - (3) Pay the fee required in Mhp 303.01(a).
- (d) Persons who wish to apply for a license as a pastoral psychotherapist and are already licensed in another state shall:
 - (1) Submit an application as required in Mhp 301.04(a)–(u);

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- (2) Pass the written examination required in Mhp 302.10;
- (3) Pass the oral examination required in Mhp 302.11;
- (4) Meet the educational requirements in Mhp 302.07;
- (5) Meet the coursework requirements in Mhp 302.08;
- (6) Meet the supervision requirements in Mhp 302.9; and
- (7) Pay fee required in Mhp 303.01(a).
- (e) Persons who wish to apply for a license as an independent clinical social worker and are already licensed in another state shall:
 - (1) Submit an application as required in Mhp 301.04 (a)-(t) or provide documentation from another state's licensing board which shall include documentation that they have met the requirements as outlined in Mhp 301.03;
 - (2) Passing the Association of Social Work Boards clinical level examination;
 - (3) Meet the educational requirements in Mhp 302.12;
 - (4) Meet the coursework requirements in Mhp 302.13;
 - (5) Meet the supervision requirements in Mhp 302.14; and
 - (6) Pay the fee required in Mhp 303.01(a).
- (f) Persons who wish to apply for a license as a clinical mental health counselor and are already licensed in another state shall:
 - (1) Submit an application as required in Mhp 301.04 (a)-(t);
 - (2) Attain a passing score on the National Clinical Mental Health Counselor Examination;
 - (3) Meet the educational requirements in Mhp 302.16;
 - (4) Meet the course requirements in Mhp 302.17 (a) and (b), except that applicants who received a master's degree or doctoral degree in counseling/psychology from an accredited program as stated in Mhp 302.16 with less than 60 credits, and obtained licensure prior to January 1, 1998, may take additional coursework from the areas cited in Mhp 302.17 to supplement the master's degree to meet the requirement in Mhp 302.17 (a);
 - (5) Meet the supervision requirements in Mhp 302.18 (a)-(k); and
 - (6) Pay the fee required in Mhp 303.01 (a).
- (g) Persons who wish to apply for a license as a marriage and family therapist and are already licensed in another state shall:
 - (1) Submit an application as required in Mhp 301.04 (a) (t);
 - (2) Attain a passing score on the exam required in Mhp 302.23;
 - (3) Meet the educational requirements required in Mhp 302.20;

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- (4) Meet the coursework required in Mhp 302.21;
- (5) Meet the supervision required in Mhp 302.22;
- (6) Pay the fee required in Mhp 303.01(a).

<u>Source.</u> (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93; EXPIRED: 7-22-99

New. #7625, eff 1-10-02, EXPIRED: 1-10-10

New. #9854, eff 1-25-11 (formerly Mhp 301.06)

PART Mhp 302 QUALIFICATIONS

Mhp 302.01 Character Qualifications. An application shall be denied if:

- (a) The applicant, or someone acting on the applicant's behalf, has submitted materially false information to the board in connection with the applicant;
- (b) Evidence of past disciplinary action taken by another licensing body or professional association, indicates the applicant cannot be relied upon to practice competently, safely and honestly, or adhere to the ethical standards required by Mhp 501.02;
- (c) Evidence of convictions of a felony or misdemeanor indicates the applicant cannot be relied upon to practice competently, safely and honestly or adhere to the ethical standards required by Mhp 501.02; or
- (d) Evidence of violations of the ethical standards indicates the applicant cannot be relied upon to practice competently, safely, and honestly.

<u>Source.</u> (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93; EXPIRED: 7-22-99

New. #7625, eff 1-10-02, EXPIRED: 1-10-10

New. #9854, eff 1-25-11

Mhp 302.02 Educational Requirements for Psychologists.

- (a) All applicants for licensure as a psychologist shall have a doctoral degree from an accredited institution of higher learning, which has received regional accreditation from the Association of Secondary Schools and Colleges or, in the case of foreign degrees, accreditation from the national association of credential evaluation services.
 - (b) The curriculum shall consist of at least 3 academic years of full-time graduate study.
- (c) Doctoral programs shall be accredited by the American Psychological Association, (APA) except as specified in (d) below.
- (d) If the doctoral program is not accredited by the American Psychological Association, the program shall:
 - (1) Clearly be identified and labeled as a psychology program;

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- (2) Specify, in institutional catalogs and brochures its intent to educate and train professional psychologists;
- (3) Stand as a recognizable, coherent entity within the institution;
- (4) Have clear authority and primary responsibility for the core and specialty areas;
- (5) Be an integrated, organized sequence of study;
- (6) Have an identifiable psychologist responsible for the program;
- (7) Have an identifiable body of students who are matriculated in that program for a degree; and
- (8) Include supervised practicum, internship, field or laboratory training appropriate to the practice of psychology.

Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93; EXPIRED: 7-22-99

New. #7625, eff 1-10-02, EXPIRED: 1-10-10

New. #9854, eff 1-25-11

Mhp 302.03 Courses Required for Psychologists.

- (a) The applicant shall complete a course of study, encompassing a minimum of 3 academic years of full time graduate study.
- (b) A minimum of one academic year of full-time academic graduate study in psychology shall be completed in residence at the institution granting the doctoral degree.
 - (c) In residence shall be determined based on criteria which includes the following:
 - (1) Predominant modality is face-to-face instruction;
 - (2) Advising and evaluation is done face-to-face;
 - (3) Students have face-to-face access to a core psychology faculty whose primary time and employment responsibilities are to the institution; and
 - (4) Students have face-to-face access to other students matriculated in the program.
 - (d) Applicants shall have instruction in:
 - (1) Scientific and professional ethics and standards;
 - (2) Research design and methodology;
 - (3) Statistics,
 - (4) Psychometrics,
 - (5) Psychotherapy techniques; and
 - (6) Addictive behavior.

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- (e) At least 24 semester hours or 36-quarter hours of course work shall include a minimum of 3 or more graduate semester hours, 5 or more graduate quarter hours, in each of the following content areas:
 - (1) Biological and chemical bases of behavior including:
 - a. Physiological psychology;
 - b. Comparative psychology;
 - c. Neuropsychology;
 - d. Sensation and perception; and
 - e. Psychopharmacology.
 - (2) Cognitive-affective bases of behavior including:
 - a. Learning;
 - b. Thinking;
 - c. Motivation; and
 - d. Emotion.
 - (3) Social bases of behavior including:
 - a. Social psychology;
 - b. Group processes;
 - c. Organization and systems theory; and
 - d. Cultural diversity.
 - (4) Individual differences including:
 - a. Personality theory;
 - b. Human development; and
 - c. Abnormal psychology.

Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93; EXPIRED: 7-22-99

New. #7625, eff 1-10-02, EXPIRED: 1-10-10

New. #9854, eff 1-25-11

Mhp 302.04 Practical Experience for Psychologists.

- (a) Applicants shall have completed at least 2 years of supervised clinical experience in that area of psychology in which they plan to practice.
- (b) A year of supervised clinical experience shall include not less than 1500 clock hours, to have been completed within not less than 12 and not more than 24 consecutive calendar months.

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- (c) Each supervisor shall be licensed in the state where the supervision takes place..
- (d) Acceptable clinical supervised experience shall include direct, formal contact with a senior person who is responsible for the educational development and guidance of the supervisee.
- (e) Supervision shall occur on site where the applicant delivers services, and be provided by someone who is familiar with the applicant's work;
- (f) Supervised experience shall not include class work, practicum experience, or other course-related experiences.
- (g) Supervised experience shall not begin until the applicant has completed 2 academic years of full-time graduate training in psychology.
- (h) Independent private practice shall not be considered acceptable supervised professional experience.
- (i) Supervisors shall not have a dual relationship with the supervisee, such as a spouse, close relative, or therapist.
 - (j) The first year of clinical supervised experience shall occur as a formal internship.
 - (k) The internship shall:
 - (1) Be from an APA approved internship program; or
 - (2) Be an organized training program that shall:
 - a. Be designed to provide the intern with a planned, programmed sequence of training experiences;
 - b. Have a clearly designated staff psychologist who is responsible for the integrity and quality of the training program and is licensed as a psychologist by a state board of examiners in psychology;
 - c. Have 2 or more psychologists on the staff as supervisors, at least one of who was actively licensed as a psychologist by a state board of examiners in psychology;
 - d. Provide internship supervision by a staff member or by an affiliate of that agency who carried clinical responsibility for the cases being supervised;
 - e. Provide internship supervision where at least half of the supervision was provided by one or more psychologists;
 - f. Provide training in a range of assessment and treatment activities conducted directly with patients seeking health services;
 - g. Provide 25% of the trainee's time in direct patient contact a minimum of 375 hours;
 - h. Be a minimum of 1500 hours completed within 24 months;
 - i Provide a minimum of 2 hours per week, regardless of whether the internship was completed in one year or 2, of regularly scheduled, formal, face-to-face individual supervision with the specific intent of dealing with health services rendered directly by the intern;

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- j. Provide at least 2 hours per week in learning activities such as:
 - 1. Case conferences;
 - 2. Seminars dealing with clinical issues;
 - 3. Co-therapy with a staff person including discussion;
 - 4. Group supervision; and
 - 5. Additional individual supervision;
- k. Have a minimum of 2 interns at the internship levels of training during the applicant's training period;
- 1. Provide the trainee with a title such as "intern", "resident", "fellow" or other designation of trainee status; and
- m. Have a written statement or brochure which:
 - 1. Describes the goals and content of the internship;
 - 2. States clear expectations for quantity and quality of trainee's work; and
 - 3. Is made available to prospective interns.
- (l) The second year of supervised experience shall follow the internship year subject to the following:
 - (1) The second year of experience shall follow the internship and may be completed prior to receiving the doctoral degree;
 - (2) Trainee title shall not be required for the second year of supervision;
 - (3) The second year of supervision shall be supervision of the applicant's direct health service in psychology provided to individuals or groups of patients/clients; and
 - (4) The second year of supervision shall consist of one hour per week of face-to-face clinical supervision for a total of 50 hours.

Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93; EXPIRED: 7-22-99

New. #7625, eff 1-10-02, EXPIRED: 1-10-10

New. #9854, eff 1-25-11

Mhp 302.05 Written Examination Procedures for Psychologists.

- (a) All applicants for licensure shall pass the Examination for the Professional Practice of Psychology (EPPP) and the written essays designated in Mhp 301.04 (j)(1)-(6).
 - (b) The passing score on the pen and pencil EPPP shall be 70%.
 - (c) The passing score on the computerized EPPP shall be a scaled score of 500.

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- (d) The EPPP shall include questions constructed, standardized, and distributed by the Association of State and Provincial Psychology Boards.
 - (e) The board shall notify each applicant of success or failure on the EPPP.
- (f) If an applicant receives a failing grade, she/he may apply for reexamination by notifying the board in writing.
- (g) If an applicant fails the EPPP examination a second time, readmission shall be permitted only after the applicant completes coursework taken through:
 - (1) A graduate department of psychology in a regionally accredited institution of higher learning;
 - (2) A professional school of psychology approved by the American Psychological Association; or
 - (3) An institution for continuing studies in psychology, which is approved, by a regionally accredited institution of higher learning or by the American Psychological Association.
- (h) An applicant who is handicapped may request special accommodations and arrangements to take the exam on the national testing date.
 - (i) The request for special accommodations shall include:
 - (1) Doctor's verification of handicap; and
 - (2) A statement of all assistance needed.

Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93; EXPIRED: 7-22-99

New. #7625, eff 1-10-02, EXPIRED: 1-10-10

New. #9854, eff 1-25-11

Mhp 302.06 Computerized EPPP.

- (a) The EPPP shall be administered via computer.
- (b) Exam candidates shall follow the procedures outlined in Mhp 301.03 and Mhp 301.04.
- (c) Exam candidates shall return completed application materials with the fee required in Mhp 303.01(a).
- (d) The board shall forward approval of candidate's application to the Professional Examination Service (PES).
- (e) Candidates shall call PES to schedule an examination at their chosen location within 60 days of the date on the "authorization-to-test" letter provided by PES.
 - (f) Candidates shall sit for the examination at their chosen testing site.
 - (g) The board shall mail examination results to candidates.
 - (h) Candidates for re-takes shall reapply to the board following the steps outlined above.

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(i) Candidates for re-takes shall wait at least 60 days before an appointment to test will be scheduled.

Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93; EXPIRED: 7-22-99

New. #7625, eff 1-10-02, EXPIRED: 1-10-10

New. #9854, eff 1-25-11

Mhp 302.07 Educational Requirements for Pastoral Psychotherapists.

- (a) All applicants for licensure shall:
 - (1) Hold a baccalaureate degree from a regionally accredited college or university;
 - (2) Hold a master's degree from a school of theology accredited by the American Association of Theological Schools prior to or within 5 years of the applicant's graduation;
 - (3) Hold a doctoral degree in pastoral psychotherapy or psychology and clinical studies based on a program the content of which was primarily psychology, pastoral counseling or psychotherapy and clinical studies, or its equivalent in both subject matter and extent of training; and
 - (4) Be authorized by a denomination or faith group through ordination, consecration, endorsement or equivalent means to exercise specific religious leadership and services within and on behalf of the denomination or faith group.

Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93; EXPIRED: 7-22-99

New. #7625, eff 1-10-02, EXPIRED: 1-10-10

New. #9854, eff 1-25-11 (formerly Mhp 302.08)

Mhp 302.08 Courses Required for Pastoral Psychotherapists.

- (a) Course work for the post-graduate degree shall be primarily related to pastoral psychotherapy, psychology and/or counseling;
 - (b) The following areas of study shall be considered as components of this academic program:
 - (1) Theories of personality and personality development;
 - (2) Interpersonal relations;
 - (3) Marriage and family dynamics;
 - (4) Group dynamics;
 - (5) Personality and culture;
 - (6) Psychopathology;
 - (7) Psychology of religious experience;
 - (8) Theories of counseling and psychotherapy;

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- (9) Personality assessment and statistics;
- (10) Theories of the pastoral office, including the history and theory of pastoral care;
- (11) Research methods; and
- (12) Orientation to the helping professions and ethics.

Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93; EXPIRED: 7-22-99

New. #7625, eff 1-10-02, EXPIRED: 1-10-10

New. #9854, eff 1-25-11 (formerly Mhp 302.09)

Mhp 302.09 Practical Experience for Pastoral Psychotherapists.

- (a) Applicants shall have completed 2 years of supervised experience in pastoral psychotherapy.
- (b) A year of experience shall be not less than 1500 hours.
- (c) Of the 3000 hours, 1375 shall be clinical counseling hours, with 250 hours of supervision.
- (d) The applicant shall give evidence of satisfactory completion of one unit of clinical pastoral education (CPE) accredited by the Association of Clinical Pastoral Education.
- (e) Supervision shall be done by at least 2 different supervisors who are state licensed mental health professionals, at least one of who shall be a licensed pastoral psychotherapist.
- (f) The supervised experience shall begin following the completion of the academic/coursework portion of the postgraduate studies in pastoral counseling.
- (g) Supervision shall be adequately divided to assure competence in intake and referral consultation, as well as individual, group, marriage, divorce, and family therapy.
- (h) Supervised experience shall not include class work, practicum experience, or other course-related experiences.
- (i) Supervisors shall not have a dual relationship with the supervisee such as a spouse, close relative, and therapist.
 - (j) Independent private practice shall not be considered supervised professional experience.
- (k) Additional supervision may be purchased by a supervisee in order to meet the requirements of Mhp 302.09 (e).

Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93; EXPIRED: 7-22-99

New. #7625, eff 1-10-02, EXPIRED: 1-10-10

New. #9854, eff 1-25-11 (formerly Mhp 302.10)

Mhp 302.10 Written Examination Requirements for Pastoral Psychotherapists.

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- (a) All applicants shall pass the New Hampshire Pastoral Psychotherapist Examination and the essay exam designated in Mhp 301.04 (j)(1-7).
- (b) Applicants needing to take the pastoral psychotherapist examination shall obtain registration information by calling the board office.
- (c) Applicant's who fail the exam shall be permitted to retake the exam 6 months after the date of the initial exam provided they notify the board in writing of their wish to do so.

Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93; EXPIRED: 7-22-99

New. #7625, eff 1-10-02, EXPIRED: 1-10-10

New. #9854, eff 1-25-11 (formerly Mhp 302.11)

Mhp 302 .11 Oral Examination Requirements for Pastoral Psychotherapists.

- (a) Once the applicant has passed the written New Hampshire Pastoral Psychotherapist Examination, he or she shall sit for the oral examination. The time and place for the oral examination shall be arranged by mutual consent of the applicant and the examiners. A passing grade shall be based on the applicant's ability to clearly articulate by way of case presentation the items detailed in (c) below.
- (b) Applicants shall be examined orally by the pastoral psychotherapist board member, 2 additional licensed pastoral psychotherapists, and any NH licensed mental health professional all of which have been selected by the board for the purpose and function to inquire extensively into areas of professional competency specified in (c) below.
 - (c) Through an oral exam an applicant shall be able to:
 - (1) State the conceptual model from which he or she understands the dynamics of personality and interpersonal relationships and show familiarity with at least some of the other principal models, which he/she does not use;
 - (2) Demonstrate familiarity with the major contributions to the literature in this professional field, and be able to discuss the writings of several of the leading authors in the field;
 - (3) Describe the therapeutic methodology he/she may employ with various representative types of cases;
 - (4) Give evidence of insight into his/her own psychological dynamics by being able to articulate how and when such dynamics are at work;
 - (5) Give evidence of being able to articulate religious and spiritual issues as they apply to the psychotherapeutic process; and
 - (6) Present a plan for how and when she or he will use peer relationships to gain ongoing insight into the work of pastoral psychotherapy and to insure that she or he does not practice in isolation.
- (d) An audio recording of the exam shall be made, and, should the candidate fail the exam, the tape may be used as a basis for appeal.
 - (e) After one year following the exam, the tape shall be destroyed.

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(f) The examining committee shall submit a written recommendation to the full board for its determination as to whether the applicant meets the requirements of Mhp 302.11 (c) (1-6).

Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93; EXPIRED: 7-22-99

New. #7625, eff 1-10-02, EXPIRED: 1-10-10

New. #9854, eff 1-25-11 (formerly Mhp 302.12)

Mhp 302.12 Educational Requirements for Clinical Social Workers.

(a) All applicants for licensure shall have a 2-year master's or doctoral degree in social work from a school approved by the Council on Social Work Education.

Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93; EXPIRED: 7-22-99

New. #7625, eff 1-10-02, EXPIRED: 1-10-10

New. #9854, eff 1-25-11 (formerly Mhp 302.13)

Mhp 302.13 Coursework Requirements for Social Workers.

- (a) At least 30 semester hours or 48 quarter hours of the course work for the master's in social work degree shall be primarily related to clinical social work in content taught as part of the curriculum of an accredited graduate school of social work.
 - (b) A minimum of one academic year of full-time graduate study in social work shall be completed in residence at the institution granting the master's in social work degree.
 - (c) In residence shall be determined based on criteria which includes the following:
 - (1) Predominant modality is face-to-face instruction;
 - (2) Advising and evaluation is done face-to-face;
 - (3) Students have face-to-face access to a core social work faculty whose primary time and employment responsibilities are to the institution; and
 - (4) Students have face-to-face access to other students matriculated in the program.
- (d) The 30 semester hours or 48-quarter hours shall be from at least 5 of the following areas of study:
 - (1) Theories of personality development, ego psychology, object relations, human behavior and social environment;
 - (2) Methods of casework or clinical interventions, social work practice, direct practice,
 - (3) Theories of cross-cultural development, and race relations;
 - (4) Marriage and family dynamics, family systems, and therapy with children;
 - (5) Group behavior and dynamics;
 - (6) Theories of psychopathology, adaptive, and maladaptive functioning;

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- (7) Chemical dependency and substance abuse;
- (8) Research methods, including policy practice evaluation; and
- (9) Internship in a clinical setting; field placement.

<u>Source.</u> (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93; EXPIRED: 7-22-99

New. #7625, eff 1-10-02, EXPIRED: 1-10-10

New. #9854, eff 1-25-11 (formerly Mhp 302.14)

Mhp 302.14 Practical Experience Requirements for Social Workers.

- (a) Applicants shall have completed 2 years of paid post-masters supervised clinical work experience.
- (b) A year of supervised clinical work experience shall be at least 1500 clock hours to have been completed within not less than 12 months and not more than 24 months, for a total of 3000 hours of work experience.
- (c) The supervision shall have included a minimum of one hour per week of individual face-to-face supervision between the supervisor and the applicant for a total of 100 hours.
- (d) Acceptable clinical supervised experience shall require direct, formal contact with a senior person who is responsible for the educational development and guidance of the supervisee and is familiar with the supervisee's work and organized setting.
 - (e) Supervision shall be from a licensed independent clinical social worker.
- (f) If supervision occurred prior to certification or licensing of clinical social workers, the supervisor shall be certified by the Academy of Clinical Social Workers.
 - (g) The supervisor shall be licensed in the state where the supervision takes place.
- (h) The supervision shall occur on site where the applicant delivers services and be provided by someone who is familiar with the applicant's work.
- (i) Supervised experience shall not include class work, practicum experience, or other course-related experiences.
- (j) The supervisee cannot utilize his or her own independent private practice as an acceptable setting for supervised paid clinical work experience.
- (k) Supervisors shall not have a dual relationship with the supervisee such as a spouse, close relative, and therapist.

Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93; EXPIRED: 7-22-99

New. #7625, eff 1-10-02, EXPIRED: 1-10-10

New. #9854, eff 1-25-11 (formerly Mhp 302.15)

Mhp 302.15 Examination for Social Workers.

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- (a) All applicants for licensure shall pass the clinical level exam distributed by the Association of Social Work Boards (ASWB) and an essay exam as designated in Mhp 301.04 (j)(1-6).
- (b) The following shall be submitted as evidence of a passing score on the ASWB clinical level examination:
 - (1) Written verification from ASWB sent to the board office; or
 - (2) A "request for results of examination score form" completed by another jurisdiction and sent to the board office.
- (c) Applicants wishing to take the clinical level exam shall obtain a test registration booklet from the board office.

<u>Source.</u> (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93; EXPIRED: 7-22-99

New. #7625, eff 1-10-02, EXPIRED: 1-10-10

New. #9854, eff 1-25-11 (formerly Mhp 302.16)

Mhp 302.16 Educational Requirements for Mental Health Counselors.

- (a) All applicant's shall have a master's degree or doctoral degree in clinical mental health counseling from a CACREP accredited institution or have a 60 credit degree in clinical mental health counseling or its equivalent and which has received regional accreditation from the Association of Secondary Schools and Colleges.
- (b) The master's degree shall consist of a course of study, which encompasses a minimum of 2 academic years of full time graduate study related to mental health counseling.
- (c) A minimum of one academic year of full-time academic graduate study in mental health counseling shall be completed in residence at the institution granting the degree.
 - (d) In residence shall be determined based on criteria which includes the following:
 - (1) Predominant modality is face-to-face instruction;
 - (2) Advising and evaluation is done face-to-face;
 - (3) Students have face-to-face access to a core of mental health counseling faculty whose primary time and employment responsibilities are to the institution; and
 - (4) Students have face-to-face access to other students matriculated in the program.
 - (d) The master's or doctoral program shall:
 - (1) Be clearly identified as a counseling program in catalogues and brochures;
 - (2) Specify the intent to educate and train counselors in mental health services;
 - (3) Have clear authority and primary responsibility for the core and specialty areas;
 - (4) Have an identifiable mental health professional responsible for the program;
 - (5) Have an integrated, organized, sequence of study;

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- (6) Have an identifiable body of students who are matriculated in that program for a degree; and
- (7) Include at least 700 hours of supervised practicum and/or internship appropriate to mental health counseling.
- (e) The requirement in (d)(7) above may be met as outlined in Mhp 302.17 (c)(2)e.

Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93; EXPIRED: 7-22-99

New. #7625, eff 1-10-02, EXPIRED: 1-10-10

New. #9854, eff 1-25-11 (formerly Mhp 302.17)

Mhp 302.17 Courses Required for Mental Health Counselors.

- (a) All applicants shall have a master's or doctoral degree in clinical mental health counseling from a CACREP accredited institution or
- (b) Have a 60 credit degree in clinical mental health counseling or its equivalent and which has received regional accreditation from the Association of Secondary Schools and Colleges and the 60 hour graduate degree shall cover at least 30 credits from the following 11 areas:
 - (1) Human growth and development;
 - (2) Abnormal psychology/psychopathology;
 - (3) Counseling theories;
 - (4) Counseling techniques;
 - (5) Social and cultural foundations;
 - (6) Group work;
 - (7) Professional orientation and ethics of mental health counseling;
 - (8) Career and lifestyle development;
 - (9) Assessment;
 - (10) Research and program evaluation; and
 - (11) Addictive behaviors.
- (c) Applicants with a master's or doctoral degree from an institution which has received regional accreditation from the Association of Secondary Schools and Colleges in clinical mental health counseling with at least 48 graduate credits but not meeting educational standards as outlined in Mhp 302.17 (b) shall meet educational requirements for clinical mental health counseling by:
 - (1) Meeting the educational requirements of Mhp 302.16 (c)-(d) {requirement for Mhp 302.16 (7) can be met as outlined in Mhp 302.17 (2)(e)};
 - (2) Obtaining the additional graduate credits needed to meet the educational standards outlined in Mhp 302.17 (b):

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- a. From one institution, which is an accredited institution of higher learning, and has received regional accreditation from the Association of Secondary Schools;
- b. From an organized program that is clearly defined as a mental health counseling program in catalogues and brochures;
- c. From areas relevant to clinical mental health counseling;
- d. When combined with credits from the master's degree meets all 11 areas listed in Mhp 302.17 (b); and
- e. The practicum/internship requirement of 700 hours may be met through the applicant's original clinical mental health counseling program and post graduate course work assuming that additional internship hours are supervised under the same institution as in (a) above; and.
- (3) Meeting the practical experience in Mhp 302.18.
- (d) Applicants with a master's or doctoral degree from an institution which is an accredited institution of higher learning, and has received regional accreditation from the Association of Secondary Schools in mental health counseling with less than 48 graduate credits hours or a master's degree from a related counseling field. shall acquire equivalency by:
 - (1) Demonstrating that the initial master's degree includes 18 graduate credits from at least 6 of the following areas:
 - a. Human growth and development;
 - b. Abnormal psychology/psychopathology;
 - c. Counseling theories; Helping relationships
 - d. Counseling techniques;
 - e. Social and cultural foundations;
 - f. Group work;
 - g. Professional orientation and ethics;
 - h. Career and lifestyle development;
 - i. Assessment;
 - j. Research and program evaluation; and
 - k. Addictive behaviors.
 - (2) Obtaining a Certificate of Advanced Graduate Studies (CAGS) or a Certificate of Advanced Studies (CAS) from an institution that has received regional accreditation from the Association of Secondary Schools that meets the following requirements:
 - a. Be at least 30 credits, 24 of which shall be completed in residence at the granting institution; and
 - b. The CAGS or CAS program shall:

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- 1. Be clearly defined as a clinical mental health counseling program in catalogues and brochures;
- 2. Specify the intent to educate and train counselors in mental health services;
- 3. Have clear authority and primary responsibility for the core and specialty areas;
- 4. Have an identifiable mental health professional responsible for the program;
- 5. Have an integrated, organized sequence of study;
- 6. Have an identifiable body of students who are matriculated in that program; and
- 7. Include supervised practicum or internship appropriate to mental health counseling such that the total number of hours of practicum and internship in a clinical mental health setting from the master's and the CAGS or CAS programs is at least 700 hours with a minimum of 200 hours of internship hours in the CAGS or CAS program;
- (3) Meeting all 11areas of Mhp 302.17 (b) with a combination of the master's degree and CAGS or CAS;
- (4) Meeting the practical experience in Mhp 302.18; and
- (5) Demonstrating that the combined credits from the original master's degree and the CAGS or CAS total 60 graduate credits and meet the requirements of Mhp 302.17 (b).
- (e) For the purpose of (d)(3)(a) above, in residence shall be determined based on criteria which includes the following:
 - (1) Predominant modality is face-to-face instruction;
 - (2) Advising and evaluation is done face-to-face;
 - (3) Students have face-to-face access to a core of counseling faculty whose primary time and employment responsibilities are to the institution; and
 - (4) Students have face-to-face access to other students matriculated in the program.

Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93; EXPIRED: 7-22-99

New. #7625, eff 1-10-02, EXPIRED: 1-10-10

New. #9854, eff 1-25-11 (formerly Mhp 302.18)

Mhp 302.18 Practical Experience for Mental Health Counselors.

- (a) Applicants shall have completed at least 2 years of paid, post-master's or doctoral supervised clinical work experience in a mental health setting.
- (b) Two years post-masters, post- doctoral, or post-CAGS or CAS supervised clinical work experience shall begin as follows:
 - (1) For applicants who meet Mhp 302.17(a) or(c) post-graduate supervision hours shall begin after the completion of program requirements;

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- (2) For applicants who meet Mhp 302.17(c) supervision hours shall begin after the granting of the 48-semester to 59-graduate credit master's degree; and
- (3) For applicants who meet Mhp 302.17(d) supervision hours shall begin after the completion of the granting of the CAGS or CAS.
- (c) A year of supervised clinical work experience shall be not less than 1500 clock hours, to have been completed within not less than 12 months and not more than 30 consecutive months.
- (d) The supervision shall have provided for a minimum of one hour per week of individual face-to-face supervision between the supervisor and the applicant for a total of 100 hours in a minimum of 100 weeks.
- (e) Acceptable clinical supervised experience shall require direct, formal contact with a senior person who is responsible for the educational development and guidance of the supervisee and is familiar with the supervisee's work and organizational setting.
 - (f) Supervision shall be provided by a licensed clinical mental health counselor.
 - (g) The supervisor shall be licensed in the state where the supervision takes place.
- (h) Supervision shall occur on site where the applicant delivers services and be provided by someone who is familiar with the applicant's work;
- (i) Supervised experience shall not include class work, practicum experience or other course related experiences;
- (j) Supervisors shall not have a dual relationship with the supervisee such as a spouse, close relative, and therapist.
- (k) Independent private practice shall not be considered acceptable supervised professional experience.

Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93; EXPIRED: 7-22-99

<u>New.</u> #7625, eff 1-10-02; ss by #8056, eff 2-28-04; ss by #9854, eff 1-25-11

Mhp 302.19 Examination for Mental Health Counselors.

- (a) All applicants for licensure shall pass the National Clinical Mental Health Counselor exam distributed by the National Board of Certified Counselors and essay exam designated in Mhp 301.04 (j)(1-6).
- (b) The following shall be submitted as evidence of a passing score on the national clinical mental health counselor examination:
 - (1) Written verification from the national board of certified counselors sent to the board office; or
 - (2) A "request for results of examination score form" completed by another jurisdiction and sent directly to the board office.

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(c) Applicants wishing to take the national clinical mental health counselor exam shall obtain a test registration form from contacting the National Board for Certified Counselors.

Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93; EXPIRED: 7-22-99

<u>New.</u> #7625, eff 1-10-02; ss by #8056, eff 2-28-04; ss by #9854, eff 1-25-11 (formerly Mhp 302.20)

Mhp 302.20 Educational Requirements for Marriage and Family Therapists.

- (a) Applicants for licensure shall:
 - (1) Have a 2 year master's degree or a doctoral degree in marriage and family therapy from a program accredited by the Commission on Accreditation for Marriage and Family Therapy Education;
 - (2) Have a 2 year master's degree or a doctoral degree in a mental health field from a regionally accredited institution and have completed a post-graduate training program accredited by the Commission on Accreditation for Marriage and Family Therapy education;
 - (3) Have a 2 year master's degree or a doctoral degree with a concentration in marriage and family therapy from a regionally accredited institution; or
 - (4) Have a clinical membership in the American Association of Marriage and Family Therapy that was obtained through the "Traditional Track" of the American Association of Marriage and Family Therapy (AAMFT).

Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93; EXPIRED: 7-22-99

New. #7625, eff 1-10-02, EXPIRED: 1-10-10

New. #9854, eff 1-25-11 (formerly Mhp 302.21)

Mhp 302.21 Coursework Required for a Concentration in Marriage and Family Therapy.

- (a) Applicants that have a degree with a concentration in marriage and family therapy as noted in Mhp 302.20(a)(3) shall complete the following coursework:
 - (1) At least 3 courses in marital and family studies, family development and family interaction patterns across the life cycle of the individual as well as the family chosen from the following subject areas:
 - a. Family life cycle;
 - b. Theories of family development;
 - c. Marriage and/or family sociology of the family;
 - d. Families under stress;
 - e. The contemporary family;
 - f. Family in a social context;

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- g. The cross/cultural family;
- h. Youth, adult, aging and the family;
- i. Family subsystems; and
- j. Individual, interpersonal relationships, such as marital, parental, sibling;
- (2) The completion of at least 3 courses in marital and family therapy chosen from the following subject areas:
 - a. Family therapy methodology;
 - b. Family assessment;
 - c. Treatment and intervention methods; and
 - d. Overview of major clinical theories of marital and family therapy such as communications theory, contextual theory, experiential theory, object relations theory, strategic theory, structural theory, systemic theory, and transgenerational theory;
- (3) The completion of one course in diagnosis;
- (4) The completion of at least 3 courses in human development chosen from the following subject areas:
 - a. Human development;
 - b. Personality theory;
 - c. Human sexuality;
 - d. Psychopathology; and
 - e. Behavior-pathology;
- (5) The completion of at least one course in professional studies chosen from the following subject areas:
 - a. Professional socialization and the role of the professional organization;
 - b. Legal responsibilities and liabilities;
 - c. Independent practice and interprofessional cooperation;
 - d. Ethics; and
 - e. Family law; and
- (6) The completion of at least one course in research chosen from the following subject areas:
 - a. Research design;
 - b. Methods;
 - c. Statistics; and

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- d. Research in marital and family studies and therapy.
- (b) The applicant shall have completed at least a one-year practicum/internship supervised by an AAMFT approved supervisor prior to the completion of the master's degree. This experience shall total a minimum of 300 hours of face-to-face client contact hours with individuals, couples, and families for the purpose of assessment, diagnosis and treatment. At least half of these client contact hours shall have been completed with couples and families.

Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93; EXPIRED: 7-22-99

New. #7625, eff 1-10-02, EXPIRED: 1-10-10

New. #9854, eff 1-25-11 (formerly Mhp 302.22)

Mhp 302.22 Post-Graduate Practical Experience for Marriage and Family Therapists.

- (a) All applicants shall have completed at least 2 years of supervised experience in the practice of marriage and family therapy with a minimum of one hour per week of individual face-to-face supervision.
- (b) A year of experience shall not be less than 1500 hours, which have been completed within not less than 12 and not more than 24 consecutive calendar months.
- (c) All applicants shall have completed 1000 hours of supervised face-to-face clinical client contact hours with individuals, couples and families.
- (d) All applicants shall have 200 hours of face-to-face supervision from an American Association of Marriage and Family Therapy approved supervisor or American Association of Marriage and Family Therapy approved alternate supervisor for 1000 hours of face-to-face contact hours.
- (e) Applicants who do not work under the supervision of an AAMFT approved supervisor or approved alternate supervisor may contract for outside supervision in order to meet the requirements in Mhp 302.22 (d) as follows:
 - (1) The outside supervisor and the supervisee's place of employment shall complete a contract stating the nature of their relationship;
 - (2) This contract shall be filed with the Supervisory Agreement; and
 - (3) Both individual and group supervision hours are acceptable as follows:
 - a. Individual supervision shall be face-to-face contact between one supervisor and up to 2 supervisees.
 - b. Group supervision shall be face-to-face contact between one supervisor and up to 6 supervisees.
- (f) Graduates of master's and doctoral programs accredited by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE) may use up to 100 hours of their pre-degree supervision towards the requirement in (d). Graduates of COAMFTE programs may also use client hours earned during their graduate program towards the requirement in (c). Students in MFT doctoral programs who have a qualifying master's degree may use practicum and internship experience and supervision in the doctoral program toward these requirements.

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- (g) A minimum of one academic year of full-time academic graduate study in marriage and family therapy shall be completed in residence at the institution granting the degree.
- (h) Whether graduate study was completed in residence shall be determined based on criteria which include the following:
 - a. Predominant modality is face-to face instruction;
 - b. Advising and evaluation is done face-to-face;
 - c. Students have face-to-face access to a core of marriage and family counseling faculty whose primary time and employment responsibilities are to the institution; and
 - d. Students have face-to-face access to other students matriculated in the program.
 - (i) Independent private practice shall not be considered supervised professional experience.
- (j) Supervisors shall not have a dual relationship with the supervisee such as a spouse, close relative, or therapist.
- (k) Alternative supervisors for both pre-graduation and post-graduate experience shall meet the following requirements:
 - (1) Have a graduate degree in couple/marriage and family therapy or related mental health discipline;
 - (2) Hold a NH license in a mental health profession;
 - (3) Have taken 5 graduate courses or taught in couple/marital and family therapy within or after the mental health professional degree used to qualify for licensure in NH;
 - a. Four of the 5 graduate courses must be clinical C/MFT theory courses or courses applying family therapy to a population e.g. MFT with violence, addictions, or sex therapy;
 - b. One course in ethics;
 - c. A course is a 3-credit semester system or a 4-credit quarter system course OR 100 continuing education units post graduate degree taken or taught in marital and family therapy workshops or seminars; and
 - (4) Two years of full-time clinical experience post-licensure.
 - (5) The 30-hour full AAMFT Approved Supervisor Training Course.

Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93; EXPIRED: 7-22-99

New. #7625, eff 1-10-02, EXPIRED: 1-10-10

New. #9854, eff 1-25-11 (formerly Mhp 302.23)

Mhp 302.23 Examination Procedures for Marriage and Family Therapists.

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- (a) Applicants for licensure shall pass the national examination in marital and family therapy distributed by the Association of Marital and Family Regulatory boards and essay exam as designated in Mhp 301.04 (j)(1-6).
- (b) Applicants for licensure who wish to take the exam shall submit the following to the board office.
 - (1) The applicant's name, address, phone number;
 - (2) A copy of the applicant's transcript; and
 - (3) The name of exam the applicant wishes to take.
- (c) The board shall send an information packet to the candidate from the Professional Examination Service (PES).
- (d) The applicant shall complete the information in the packet and send it to the Professional Examination Service.
 - (e) The applicant shall set up a time and date with PES to sit for the exam.
- (f) The passing score on the examination shall be the national cutoff point as determined by the American Association of Marriage and Family Regulatory Boards.
 - (g) The board shall notify each applicant of success of failure or the examination.
- (h) If an applicant receives a failing grade he/she may apply for reexamination by notifying the board in writing.

Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93; EXPIRED: 7-22-99

New. #7625, eff 1-10-02, EXPIRED: 1-10-10

New. #9854, eff 1-25-11 (formerly Mhp 302.24)

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PART Mhp 303 FEES

Mhp 303.01 Fee Schedule. The fees required by the board under RSA 330-A shall be as follows:

| (a) License application review | \$150.00 |
|--------------------------------------|----------|
| (b) Approved license application fee | \$135.00 |
| (c) Renewal fee for 2 years | \$270.00 |
| (d) Renewal fee for dual license | \$350.00 |
| (e) Inactive fee for one year | \$ 67.50 |
| (f) Candidate Agreement review | \$ 25.00 |
| (g) License replacement | \$ 10.00 |
| (h) Reinstatement fee | \$300.00 |
| (i) Letter of good standing | \$ 25.00 |
| (j)Bill of Rights – additional copy | \$ 10.00 |
| (k) License verification | \$ 10.00 |
| (1) Wall license replacement | \$ 10.00 |

Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93; EXPIRED: 7-22-99

New. #7625, eff 1-10-02, EXPIRED: 1-10-10

New. #9854, eff 1-25-11

APPENDIX

| Rule | Statute Implemented |
|---------------------|--------------------------|
| | |
| Mhp 301.01-301.02 | RSA 330-A:16-23 |
| Mhp 302.01-302.04 | RSA 330-A:16, I |
| Mhp 302.05-302.06 | RSA 330-A:16, II |
| Mhp 302.07-302.09 | RSA 330-A:17, II-XI |
| Mhp 302.08-302.10 | RSA 330-A:17, II-XI |
| Mhp 302.10-302.11 | RSA 330-A:17, I |
| Mhp 302.12-302.14 | RSA 330-A:18, I, II, III |
| Mhp 302.15 | RSA 330-A:18, IV |
| Mhp 302.16 – 302.18 | RSA 330-A:19, I (a)(c) |
| Mhp 302.19 | RSA 330-A:19, I(b) |
| Mhp 302.20-302.22 | RSA 330-A:21, I, III |
| Mhp 302.21-302.22 | RSA 330-A:21, I |
| Mhp 302.23 | RSA 330-A:21, II |
| Mhp 302.24 | RSA 330-A:21, II |
| Mhp 303 | RSA 330-A:12 |

CHAPTER Mhp 400 LICENSE RENEWAL, CONTINUING EDUCATION, COLLABORATION AND REINSTATEMENT

PART Mhp 401 RENEWAL OF LICENSE

Mhp 401.01 Expiration of License.

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- (a) License shall automatically expire 2 years from the date of issue or renewal.
- (b) A renewal license shall be valid for 2 years upon approval of application submitted in a timely manner in accordance with Mhp 401.02.

Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93; EXPIRED: 7-22-99

New. #7625, eff 1-10-02, EXPIRED: 1-10-10

New. #9854, eff 1-25-11

Mhp 401.02 Renewal Requirements.

- (a) Any licensee wishing to renew a license shall submit the following to the board office prior to the date of license expiration:
 - (1) The renewal application supplied by the board, which contains the information specified by Mhp 401.03;
 - (2) Documentation of compliance with the continuing education requirements of Mhp 402 on a form provided by the board, including:
 - a. Name;
 - b. Business address and phone number; and
 - c. Mental health professional license number.
 - (3) The fee specified by Mhp 303.01(c); and
- (b) Failure to meet the requirements of Mhp 401.02 by the prescribed date shall result in the license expiring.
- (c) If a license has expired pursuant to Mhp 402.02 (b) such person shall not practice mental health services until such time that a new license is applied for pursuant to Mhp 301.03 or Mhp 404.01 and granted by the board.
 - (d) The renewal process shall only be available to persons whose current license has not expired.

Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93; EXPIRED: 7-22-99

New. #7625, eff 1-10-02, EXPIRED: 1-10-10

New. #9854, eff 1-25-11

Mhp 401.03 Application form. The application form for license renewal shall include:

- (a) Name;
- (b) Residence and business addresses and telephone numbers;
- (c) A statement indicating whether the applicant is actively engaged in mental health practice in New Hampshire;

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- (d) Disclosure, and explanation where applicable, of the following information regarding the previous 2 year period:
 - (1) Whether any malpractice claim has been made against the applicant, regardless of whether a lawsuit was filed in relation to the claim;
 - (2) If the applicant has been denied a psychology, pastoral psychotherapist, social work, mental health counselor or marriage and family therapist license, certificate, or registration anywhere for any reason;
 - (3) If the applicant has any formal disciplinary charges pending or if any disciplinary action has been taken against the applicant by any mental health professional licensing board, any health care facility, or any professional association;
 - (4) If the applicant voluntarily surrendered a license to practice mental health in lieu of disciplinary action;
 - (5) If the applicant has been convicted of a crime involving violence, abuse, fraud, dishonesty, or drugs; and
 - (6) If the applicant had or currently has a mental illness or other disorder which impaired her or his ability to practice mental health counseling and if so, the treatment received and the outcome of such treatment.
- (e) Attestation that the licensee has complied with the continuing education requirements of Mhp 402.01 and collaboration requirements of Mhp 403.01;
- (f) A representation that the licensee acknowledges that the provision of false information in the application is a basis for disciplinary action by the board;
- (g) A statement of means used in providing interdisciplinary collaboration among mental health disciplines;
- (h) The applicant's signature on a statement which declares that the information and documentation provided in the application is true, accurate, complete, and unaltered; and
 - (j) The date the applicant signed the application.

Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93; EXPIRED: 7-22-99

New. #7625, eff 1-10-02, EXPIRED: 1-10-10

New. #9854, eff 1-25-11

Mhp 401.04 <u>Filing Date</u>. An application for license renewal shall be on file in the board office no later than the expiration date of the present license.

Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93; EXPIRED: 7-22-99

New. #7625, eff 1-10-02, EXPIRED: 1-10-10

New. #9854, eff 1-25-11

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Mhp 401.05 <u>Denial of Renewal</u>. License renewal shall be denied if there is a preponderance of the evidence to establish:

- (a) Noncompliance with the continuing education requirement of Mhp 402.01 or the collaboration requirement of Mhp 403.01.
 - (b) Failure to furnish complete or accurate information on the renewal license application; or
- (c) That the requirements of RSA 330-A and these rules relative to licensure and qualifications have not been met, or no longer continue to be met.

Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93; EXPIRED: 7-22-99

New. #7625, eff 1-10-02, EXPIRED: 1-10-10

New. #9854, eff 1-25-11

Mhp 401.06 Inactive Status.

- (a) Inactive status may be obtained by a license holder who:
 - (1) Holds a current NH license with the board;
 - (2) Has no disciplinary action or pending disciplinary action;
 - (3) No longer engages in mental health practice in New Hampshire;
 - (4) Notifies the board in writing that they wish to put their license on inactive status;
 - (5) Pays the fee designated in Mhp 303.01 (e) by June 30, annually.
- (b) Licensees wishing to maintain inactive status must renew their request in writing and pay the required fee designated in Mhp 303.01 (e).
 - (c) Licensees wishing to reactivate shall submit the following:
 - (1) The reactivation application supplied by the board, which contains information specified in Mhp 401.07;
 - (2) Documentation of 40 hours of CEU's (6 in ethics) taken within 2 years prior to the date of the applications; and
 - (2) The fee specified by Mhp 303.01 (c).

Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93; EXPIRED: 7-22-99

New. #7625, eff 1-10-02, EXPIRED: 1-10-10

New. #9854, eff 1-25-11

Mhp 401.07 <u>Reactivation Form</u>. The applicant shall supply the following on the application form for license reactivation:

(a) Name;

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- (b) Residence and business addresses and telephone numbers;
- (c) A statement indicating whether the applicant is actively practicing mental health service in another state;
- (d) Disclosure, and explanation where applicable, of the following information regarding the inactive period:
 - (1) If any malpractice claim has been made against the applicant, regardless of whether a lawsuit was filed in relation to the claim;
 - (2) If the applicant has been denied a psychology, pastoral psychotherapist, social work, mental health counselor or marriage and family therapist license, certificate, or registration anywhere for any reason;
 - (3) If the applicant has any formal disciplinary charges pending or if any disciplinary action has been taken against the applicant by any mental health professional licensing board, any health care facility, or any professional association;
 - (4) If the applicant voluntarily surrendered a license to practice mental health in lieu of disciplinary action;
 - (5) If the applicant has been convicted of a crime involving violence, abuse, fraud, dishonesty, or drugs; or
 - (6) If the applicant had or currently has a mental illness or other disorder which impaired her or his ability to practice mental health counseling, and if so, the treatment received and the outcome of such treatment;
- (e) Documentation of 40 hours of CEU's taken within 2 years prior to the date reactivation takes place. These credits need to meet the requirements of Mhp 402.

Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93; EXPIRED: 7-22-99

New. #7625, eff 1-10-02, EXPIRED: 1-10-10

New. #9854, eff 1-25-11

PART Mhp 402 CONTINUING EDUCATION

Mhp 402.01 <u>Continuing Education Requirements</u>.

- (a) Each licensee shall complete 40 approved hours of continuing education every 2 years.
- (b) At least 30 of the 40 hours shall be completed from Category A as described in Mhp 402.02(a)-(d).
- (c) At least 6 of the 40 hours shall be completed in ethics and shall be from Category A.
- (d) No more than 10 hours shall be from Category B as described in Mhp 402.02(e).
- (e) When requested to do so by the board, the licensee shall be responsible for proving attendance at or participation in any continuing education hours submitted for license renewal.

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(f) Licensed members of the board shall receive 3 ethics continuing education credits per year to meet Mhp 402.01 (c).

Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93; EXPIRED: 7-22-99

New. #7625, eff 1-10-02, EXPIRED: 1-10-10

New. #9854, eff 1-25-11 (formerly Mhp 403.01)

Mhp 402.02 Approved Continuing Education Units.

- (a) Category A credits may be earned by:
 - (1) Participation in seminars or workshops;
 - (2) Participation in home study courses, up to a maximum of 20 hours;
 - (3) Preparation of a seminar or workshop, up to a maximum of 10 hours; or
 - (4) Graduate academic coursework.
- (b) Category A seminars, workshops and home study shall include those that are approved by one of the following groups:
 - (1) American Psychological Association;
 - (2) American Association of Pastoral Counselors or their accredited training programs;
 - (3) National Association of Social Workers;
 - (4) National Board for Certified Counselors;
 - (5) American Association for Marriage and Family therapy;
 - (6) American Counseling Association;
 - (7) American Association of Sex Educators, Counselors & Therapists;
 - (8) American Association of Group Psychotherapists;
 - (9) American Medical Association; or
 - (10) American Mental Health Counselor Association.
- (c) Category A graduate academic coursework shall include courses from a department of psychology or other department in the behavioral sciences at a regionally accredited school, college or university or theological school. Each semester hour of course credit shall count as equivalent to 6 continuing education credits, and quarter hours shall be 4 credits.
 - (d) Category A credits may be obtained for licensees teaching such courses in (c), as follows:
 - (1) Preparation of a syllabus and teaching of a new course shall count as equivalent to 10 credits; and

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- (2) Thorough updating of a course, including preparation of a new syllabus, review of the literature, preparation of reading lists and course assignments shall count as equivalent to 5 credits.
- (e) Category B credits may be earned through:
 - (1) Participation in mental health seminars or workshops not meeting the requirements of Category A;
 - (2) Publication of professional books; and
 - (3) Publication of articles in professional journals not to exceed 5 hours per year.

Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93; EXPIRED: 7-22-99

New. #7625, eff 1-10-02, EXPIRED: 1-10-10

New. #9854, eff 1-25-11 (formerly Mhp 403.02)

Mhp 402.03 Failure to Satisfy Continuing Education Requirements.

- (a) An applicant for license renewal who has not completed 40 CEU's in the preceding biennium shall file a petition with the board no less than 60 days prior to the license expiration requesting a waiver of Mhp 402.01:
 - (b) The waiver shall be granted if good cause is demonstrated in that:
 - (1) Adherence to the rule would be unduly burdensome to the petitioner for reasons of health, disability, family emergency, or extreme financial hardship;
 - (2) Waiver of the rule would be consistent with the statutes and rules of the board;
 - (3) Waiver of the rule would not injure third persons; and
 - (4) Waiver is necessary due to factors outside the control of the petitioner.

Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93; EXPIRED: 7-22-99

New. #7625, eff 1-10-02, EXPIRED: 1-10-10

New. #9854, eff 1-25-11 (formerly Mhp 403.03)

PART Mhp 403 COLLABORATION - ON GOING REQUIREMENT

Mhp 403.01 Collaboration.

- (a) Each licensee shall complete 40 hours of collaboration every 2 years.
- (b) The licensee shall be responsible for documenting clinical collaboration hours submitted for license renewal.

Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93; EXPIRED: 7-22-99

New. #7625, eff 1-10-02, EXPIRED: 1-10-10

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New. #9854, eff 1-25-11 (formerly Mhp 404.01)

Mhp 403.02 Collaboration Content.

- (a) Collaboration shall include:
 - (1) Small group meetings among licensed mental health practitioners;
 - (2) Being in supervision or consultation with another licensed mental health practitioner;
 - (3) Participation in a study group on topical issues for a minimum of 10 hours per group per year;
 - (4) Conferences with recognized experts in person or via electronic medium in particular disorders or fields:
 - (5) Clinical research collaboration with licensed mental health practitioners;
 - (6) Attendance at mental health provider hospital meetings where the provider has an appointment and where the meeting addresses clinical issues regarding patient care issues.

Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93; EXPIRED: 7-22-99

New. #7625, eff 1-10-02, EXPIRED: 1-10-10

New. #9854, eff 1-25-11 (formerly Mhp 404.02)

PART Mhp 404 REINSTATEMENT

Mhp 404.01 Reinstatement Requirements.

Licensees wishing to reinstate shall submit the following no later than 6 months after the date of license expiration:

- (a) The reinstatement application supplied by the board, which contains information specified in Mhp 404.02;
- (b) Documentation of compliance with the continuing education requirements of Mhp 402, and the collaboration requirements of Mhp 403 on a form provided by the board which includes the applicant's:
 - (1) Name;
 - (2) Residence and business addresses and phone numbers; and
 - (3) Mental health practitioner's number; and
 - (c) The fee specified by Mhp 303.01 (h).

<u>Source.</u> (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93; EXPIRED: 7-22-99

New. #7625, eff 1-10-02, EXPIRED: 1-10-10

New. #9854, eff 1-25-11 (formerly Mhp 405.01)

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Mhp 404.02 <u>Application Form</u>. The applicant for license reinstatement shall require the applicant to supply the following information:

- (a) Name;
- (b) Residence and business addresses and telephone numbers;
- (c) A statement indicating whether the applicant is actively engaged in mental health practice;
- (d) Disclosure, and explanation where applicable, of the following information regarding the previous 2 year period:
 - (1) If any malpractice claim has been made against the applicant, regardless of whether a lawsuit was filed in relation to the claim;
 - (2) If the applicant has been denied a psychology, pastoral psychotherapist, social work, mental health counselor or marriage and family therapist license, certificate, or registration anywhere for any reason;
 - (3) If the applicant has any formal disciplinary charges pending or if any disciplinary action has been taken against the applicant by any mental health professional licensing board, any health care facility, or any professional association;
 - (4) If the applicant voluntarily surrendered a license to engage in mental health practice in lieu of disciplinary action;
 - (5) If the applicant has been convicted of a crime involving violence, abuse, fraud, dishonesty, or drugs that has not been annulled; and
 - (6) If the applicant has ever had or currently has a mental illness or other disorder which impaired her or his ability to practice mental health counseling, and if so, the treatment received and the outcome of such treatment;
- (e) Attestation that the licensee has complied with the continuing education requirements of Mhp 402 and collaboration requirements of Mhp 403;
- (f) A representation that the licensee acknowledges that the provision of false information in the application is a basis for disciplinary action by the board; and
- (g) A statement of means used in providing interdisciplinary collaboration among mental health disciplines.

Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93; EXPIRED: 7-22-99

New. #7625, eff 1-10-02, EXPIRED: 1-10-10

New. #9854, eff 1-25-11 (formerly Mhp 405.02)

Mhp 404.03 <u>Denial of Reinstatement</u>. License reinstatement shall be denied if, after notice and an opportunity for hearing, there is a preponderance of the evidence to establish:

- (a) Noncompliance with the continuing education requirement of Mhp 402 or collaboration requirement of Mhp 403.
 - (b) Failure to furnish complete or accurate information on the reinstatement license application;

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(c) That the requirements of RSA 330-A and these rules relative to licensure and qualifications have not been, or no longer continue to be met.

Source. #9854, eff 1-25-11 (formerly Mhp 405.03)

APPENDIX

| RULE NUMBER | STATUTE IMPLEMENTED |
|-------------|---------------------|
| | |
| Mhp 401 | RSA 330-A:31 |
| Mhp 402 | RSA 330-A:10, XIV |
| Mhp 403 | RSA 330-A:10, XX |
| Mhp 404 | RSA 330-A:10, XIV |

CHAPTER Mhp 500 ETHICAL AND PROFESSIONAL STANDARDS, RESPONSIBILITIES OF LICENSEES

PART Mhp 501 ETHICAL AND PROFESSIONAL STANDARDS

Mhp 501.01 Obligation to Obey.

(a) All licensees shall be bound to the ethical standards set forth in this part. Disciplinary sanctions may be imposed for violation of any such standards.

<u>Source.</u> (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93; EXPIRED: 7-22-99

New. #7625, eff 1-10-02, EXPIRED: 1-10-10

New. #9854, eff 1-25-11

Mhp 501.02 Code of Ethics.

- (a) A licensee shall adhere to the code of ethics of the profession in which they are licensed, as adopted by the following entities:
 - (1) For "psychologists" the American Psychological Association code of ethics of 2002;
 - (2) For "pastoral psychotherapists" the American Association of Pastoral Counselors code of ethics of 4/1994;
 - (3) For "clinical social workers" the National Association of Social Workers code of ethics of 2008;
 - (4) For "mental health counselors" the American Mental Health Counseling Association code of ethics of 1/2010; and
 - (5) For "marriage and family therapists" the American Association of Marriage and Family Therapists code of ethics of 7/2001
 - (b) A licensee shall adhere to the following standards:
 - (1) A licensee shall provide honest and accurate information in reports; and

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- (2) A licensee shall maintain sexual boundaries by:
 - a. Refraining from any behavior a reasonable person would interpret as exploiting the practitioner-patient relationship in a sexual way; and
 - b. Avoiding any behavior by the mental health practitioner, which could be interpreted as sexual by a reasonable person, even when initiated by or consented to by the patient.

Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93; EXPIRED: 7-22-99

New. #7625, eff 1-10-02, EXPIRED: 1-10-10

New. #9854, eff 1-25-11

PART Mhp 502 RESPONSIBILITIES OF LICENSEES

Mhp 502.01 Responsibilities of Licensees.

- (a) A licensee shall comply with all applicable rules adopted by the board.
- (b) A licensee shall submit only truthful and correct information, to the best of the licensee's knowledge and belief, in any application or other document filed with or statement made to the board.
 - (c) A licensee shall cooperate with investigations and requests for information from the board.
 - (d) A licensee shall inform the board of:
 - (1) A principal business address to which all official board communications should be directed; and
 - (2) All addresses where the licensee is practicing.
- (e) A licensee shall report to the board within 30 days any change or abandonment of a business address.
- (f) A licensee shall display in a conspicuous place at his or her principal business address a current license issued by the board.
- (g) A licensee shall know and have available in his or her office information regarding how patients may contact the board regarding complaints about their treatment or billing.
- (h) A licensee shall display at his or her principal business address a copy of the mental health bill of rights described in Mhp 502.02.
- (i) A licensee shall not advertise any service as free if the patient is charged for any aspect of the treatment provided on the office visit when the free service was provided, or otherwise engage in any false or misleading advertising.
 - (j) A licensee shall not engage in any fraudulent or dishonest billing practices.
- (k) A licensee shall maintain complete and accurate clinical and business records pertaining to each patient seen for a minimum of 7 years following the last activity on the account and for minors for a period of 7 years past the age of majority.

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- (l) A licensee shall maintain clinical records that include, at a minimum, legible date of service, type of service, outcome of service and signature of service provider.
- (m) Except as otherwise provided by law, a licensee shall within 30 days furnish complete and accurate copies of patient records, or in appropriate circumstances, original patient records upon request of the patient, or if the patient is under the age of 18, the request of their parent or guardian, unless prohibited by a court order.
- (n) A licensee shall inform the board within 30 days of any disciplinary action taken against the licensee by a state, regional or national agency or association.

Source. (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93; EXPIRED: 7-22-99

New. #7625, eff 1-10-02, EXPIRED: 1-10-10

New. #9854, eff 1-25-11

Mhp 502.02 Mental Health Bill of Rights.

(a) The board shall provide each licensee with a client bill of rights to read as follows:

"This Mental Health Bill of Rights is provided by law to persons receiving mental health services in the State of New Hampshire. Its purpose is to protect the rights and enhance the well being of clients, by informing them of key aspects of the clinical relationship. As a client of a New Hampshire Mental Health Practitioner, you have, without asking, the right:

- (1) To be treated in a professional, respectful, competent and ethical manner consistent with all applicable state laws and the following professional ethical standards:
 - a. for psychologists, the American Psychological Association;
 - b for independent clinical social workers; the National Association of Social Workers;
 - c. for pastoral psychotherapists; the American Association of Pastoral Counselors;
 - d. for clinical mental health counselors; the American Mental Health Counselor Association; and
 - e. for marriage and family therapists; the American Association for Marriage and Family Therapists.
- (2) To receive full information about your treatment provider's knowledge, skills, experience and credentials.
- (3) To have the information you disclose to your mental health provider kept confidential within the limits of state and federal law. Communications between mental health providers and clients are typically confidential, unless the law requires their disclosure. Mental health providers will inform you of the legal exceptions to confidentiality, and should such an exception arise, will share only such information as required by law. Examples of such exceptions include but are not limited to:
 - a. abuse of a child;
 - b. abuse of an incapacitated adult;

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- c. Health Information Portability and Accountability Act (HIPAA) regulation compliance;
- d. certain rights you may have waived when contracting for third party financial coverage;
- e. orders of the court; and
- f. significant threats to self, others or property.
- (4) To a safe setting and to know that the services provided are effective and of a quality consistent with the standard of care within each profession and to know that sexual relations between a mental health provider and a client or former client are a violation of the law (RSA 330-A:36).
- (5) To obtain information, as allowed by law, pertaining to the mental health provider's assessment, assessment procedures and mental health diagnoses (RSA 330-A:2 VI).
- (6) To participate meaningfully in the planning, implementation and termination or referral of your treatment.
- (7) To documented informed consent: to be informed of the risks and benefits of the proposed treatment, the risks and benefits of alternative treatments and the risks and benefits of no treatment. When obtaining informed consent for treatment for which safety and effectiveness have not been established, therapists will inform their clients of this and of the voluntary nature of their participation. In addition, clients have the right to be informed of their rights and responsibilities, and of the mental health provider's practice policies regarding confidentiality, office hours, fees, missed appointments, billing policies, electronic communications, managed care issues, record management, and other relevant matters except as otherwise provided by law.
- (8) To obtain information regarding the provision(s) for emergency coverage.
- (9) To receive a copy of your mental health record within 30 days upon written request (except as otherwise provided by law), by paying a nominal fee designed to defray the administrative costs of reproducing the record.
- (10) To know that your mental health provider is licensed by the State of New Hampshire to provide mental health services.
 - a. You have the right to obtain information about mental health practice in New Hampshire. You may contact the Board of Mental Health Practice for a list names, addresses, phone numbers and websites of state and national professional associations listed in Mhp 502.02(a)(1)(a-e).
 - b. You have the right to discuss questions or concerns about the mental health services you receive with your provider.
 - c. You have the right to file a complaint with the Board of Mental Health Practice."
- (b) A licensee shall post a copy of the above mental health bill of rights in a prominent location in the office of the mental health practitioner and provide a copy upon request.
- (c) A licensee shall provide a copy of the mental health bill of rights to the client and/or agency if the assessment, consultation or intervention is provided outside the office.

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(d) A licensee shall, when a client is under the age of 18, assure these rights are applied through, and to, the parent or guardian of their client, unless limited by a court order.

<u>Source.</u> (See Revision Note at chapter heading for Psy 100) #5675, eff 7-22-93; EXPIRED: 7-22-99

<u>New.</u> #7625, eff 1-10-02; ss by #8056, eff 2-28-04; ss by #9854, eff 1-25-11

PART Mhp 503 ALLEGATIONS OF LICENSEE MISCONDUCT

Mhp 503.01 <u>Definitions</u>.

- (a) "Administrative Prosecutions Unit" (APU) means the administrative prosecutions unit of the Attorney General's office.
- (b) "Board investigator" means a board member who is responsible for overseeing the activities of the professional conduct investigators.
- (c) "Communication of alleged misconduct" means a written statement received by the board suggesting professional misconduct of a licensee under RSA 330-A:27 II or Mhp 500.
- (d) "Complaint" means a communication of alleged misconduct containing information as the Board shall determine, if true, could violate ethical codes, administrative rules, or the law.
 - (e) "Consent decree" means a final and binding order that is issued by agreement of all parties.
- (f) "Corrective action" means settlement agreements between the board and a licensee whereby the licensee agrees to make certain changes in his or her practice, to undertake clinical supervision, and/or to take some recommended program in exchange for the board's ultimate dismissal of the complaint.
 - (g) "Data" means all information relevant to an investigation, including but not limited to:
 - (1) Oral or written statements;
 - (2) Reports;
 - (3) Maps;
 - (4) Charts;
 - (5) Drawings;
 - (6) Photographs;
 - (7) Audio or video recordings;
 - (8) Computer programs; or
 - (9) Computer printouts.
- (h) "Disciplinary proceeding" means an adjudicative proceeding commenced by the board for the purpose of examining alleged misconduct by a licensee.
- (i) "Hearing counsel" means an individual appointed by the board to present licensee misconduct allegations and denials of applications for licensure to the board.

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- (j) "Investigation" means a gathering of data by the board concerning matters within its jurisdiction.
- (k) "Letter of concern" means a written letter from the board drawing the licensee's attention to specific acts or omissions that could place the licensee at risk of future disciplinary action. A letter of concern is non-disciplinary and is sent to the licensee following a complaint and/or investigation.
- (1) "Mediation" means an informal, confidential process facilitated by a qualified neutral party, and intended to resolve conflicts by agreement.
 - (m) "Order" means a document issued by the board:
 - (1) Establishing procedures to be followed in an adjudicative or nonadjudicative proceeding;
 - (2) Granting or denying a petition or motion;
 - (3) Requiring a person to do, or to abstain from doing something; or
 - (4) Determining a person's rights to a license or other privilege established by RSA 330-A.
- (n) "Petition" means any request to the board seeking an order or any other action for relief, but does not include a license application or a motion.
- (o) "Presiding officer" means the board member or other individual to whom the board has delegated authority to preside over some or all aspects of an adjudicative or other proceeding.
- (p) "Professional Conduct Investigator" (PCI) means a trained licensed mental health practitioner who, as an agent of the board, under the guidance of the board investigator discovers facts and makes reports to the board.
- (q) "Report of Investigation" (ROI) means report of information, facts and data gathered for the board.
- (r) "Settlement agreement" means a written order of the board acknowledging consent of the licensee to enter stipulated facts and imposing disciplinary actions consented to by the licensee to resolve certain allegations of licensee misconduct.

Source. #9854, eff 1-25-11

Mhp 503.02 Communications of Alleged Misconduct Regarding a Licensee.

- (a) Communications of alleged misconduct shall be filed at the board's offices in Concord, New Hampshire.
- (b) A communication of alleged misconduct shall be treated as a request for inquiry into the acts or omissions of a licensee.
 - (c) A communication of alleged misconduct shall contain the following:
 - (1) The name, address and phone number of the petitioner;
 - (2) The name and business address of the licensee against whom the alleged misconduct is directed:

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- (3) The specific facts and circumstances which are believed to constitute professional misconduct; and
- (4) A signature and date as required by Mhp 204.02 (a).
- (d) The board shall make available for public use, a form entitled "Communication of Alleged Misconduct." The form shall require the information enumerated in Mhp 503.02 (c) above, but the use of the form shall not be required.
 - (e) [not adopted]
- (f) The withdrawal of a communication of alleged misconduct shall not preclude the board from independently pursuing some or all of the allegations of misconduct alleged by the complainant.

Source. #9854, eff 1-25-11

Mhp 503.03 Action on Communications of Alleged Misconduct.

- (a) The board shall dismiss a communication of alleged misconduct at any time upon a determination that it:
 - (1) Fails to state a cause of action; or
 - (2) Alleges conduct that could not be adequately addressed by the board such as excessive passage of time, lack of jurisdiction.
- (b) The board shall determine that a communication of alleged misconduct constitutes a complaint when, if true, the alleged misconduct could violate ethical codes, administrative rules or the law.
 - (c) The board shall investigate the complaints by taking any or all of the following actions:
 - (1) Conduct an informal investigation pursuant to Mhp 206.01;
 - (2) Commence a formal investigation pursuant to Mhp 206.02; or
 - (3) Commence a disciplinary proceeding pursuant to Mhp 504.

Source. #9854, eff 1-25-11 (formerly Mhp 402.02)

Mhp 503.04 Misconduct Investigations.

- (a) The type, form and extent of an investigation shall be determined by the board as described in Mhp 206.
 - (b) [not adopted]
- (c) Investigations, including those initiated because of a communication of alleged misconduct shall be conducted on an ex parte basis.
- (d) If, in the course of an investigation, a professional conduct investigator receives data which leads him/her to believe that an additional violation of any statute administered by the board, or of any rule of the board has occurred, the investigator shall request additional instruction from the board as to whether to expand the scope of the investigation.
- (e) At the conclusion of any investigation, the professional conduct investigator shall make a written report to the board. The report may contain information from which the board may determine whether or not further action appears to be warranted.

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- (f) A report of investigation and all information gathered by the professional conduct investigator shall be confidential except that:
 - (1) The report of investigation shall be given to the board.
 - (2) Information gathered in an investigation shall become subject to public disclosure if it is introduced as evidence in a disciplinary hearing; and
 - (3) The board shall provide the report of investigation or that portion of information gathered during an investigation and relevant to criminal activity to law enforcement agencies when mandated by law or it appears that criminal laws may have been violated.
 - (4) The board shall provide information gathered in misconduct investigations to:
 - a. Board investigators or prosecutors; and
 - b. Licensee, a summary of the facts contained in the report of investigation (ROI) in contemplation of good faith settlement proceedings.
- (g) The board shall request further investigation upon receiving new material information or upon a determination that some aspect of the initial allegation was not thoroughly explored.

Source. #9854, eff 1-25-11 (formerly Mhp 210.04)

Mhp 503.05 Professional Conduct Investigators.

- (a) In addition to those professional conduct investigators (PCI's) defined in Mhp 503.01 (p), the board shall appoint any trained individual or attorney as a professional conduct investigator to discover facts and make reports to the board when additional expertise or staffing is needed.
 - (b) The board investigator shall:
 - (1) Oversee the professional conduct investigators who are appointed by the board;
 - (2) Assign cases to the professional conduct investigators;
 - (3) Oversee the professional conduct investigators' training; and
 - (4) Arrange professional conduct investigators' supervision as appropriate.
- (c) A professional conduct investigator shall not be appointed to conduct investigations for the board for more than 2 consecutive 3 year terms.
 - (d) All professional conduct investigators serve at the pleasure of the board
- (e) All professional conduct investigators shall receive one hour of continuing education for each hour they meet with the board investigator for a maximum of 12 hours. Three of these hours shall include ethics.

Source. #9854, eff 1-25-11

Mhp 503.06 Action on Complaints.

(a) Upon conclusion of any investigation into a complaint, the board shall take one of the following actions:

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- (b) Conclude that the complaint requires no further action;
- (c) Refer the matter for mediation after obtaining consent of the petitioner;
- (c) Issue a confidential letter of concern, which shall not be considered a disciplinary action of the board. If a licensee wishes to file a response to that letter of concern with the board, the board will place that letter in the licensee's file. The board will not otherwise respond or take action to the licensee's response letter;
- (d) Determine that a violation may have occurred and send the complaint to APU for resolution which could include:
 - (1) Corrective action; or
 - (2) Settlement pursuant to Mhp 503.07; or
 - (e) Initiate disciplinary proceedings in accordance with Mhp 504.

Source. #9854, eff 1-25-11

Mhp 503.07 Settlement Agreements.

- (a) Upon receiving the consent of the licensee to a specific written proposal, the board shall consider whether to approve a settlement agreement or a consent decree which resolves some or all of the issues raised in the investigation of a misconduct complaint.
- (b) Motions to approve settlement agreements shall be entertained until a notice of hearing is issued. Thereafter, resolution shall be accomplished by means of a consent decree.

Source. #9854, eff 1-25-11

PART Mhp 504 DISCIPLINARY PROCEEDINGS

Mhp 504.01 Applicability. This part shall govern all disciplinary proceedings conducted by the board.

Source. #9854, eff 1-25-11 (formerly Mhp 206.01)

Mhp 504.02 Commencement of Disciplinary Proceedings.

- (a) The board shall commence a disciplinary proceeding by issuing a notice of hearing to the parties at least 15 days before the first scheduled hearing date or first prehearing conference.
 - (b) The notice commencing a disciplinary proceeding shall:
 - (1) Specify the time, place and nature of any hearing;.
 - (2) Summarize the subject matter of the proceeding and identify the issues to be resolved;
 - (3) Specify the legislative authority for the proposed action and identify any applicable board regulations;
 - (4) Specify the date by which, and the address where, appearances or motions by parties or representatives shall be filed;
 - (5) Specify the date, time, and location of an initial prehearing conference or date for a public hearing;

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- (6) Identify the presiding officer for the proceeding if other than the chairperson of the board;
- (7) Identify any special procedures to be followed;
- (8) Identify any confidentially requirements applicable to the preceding;
- (9) Specify that each party has the right to have an attorney represent him or her at the party's own expense; and
- (10) Contain such other information or attachments as are warranted by the circumstances of the case, including, but not limited to:
 - a. Orders consolidating or severing issues to be heard;
 - b. Orders directing the production or exchange of documents; and
 - c. Notification that a stenographic recording of the hearing shall be taken and preserved.
- (c) A petitioner shall be a party to a disciplinary proceeding instituted by the board only if the board issues an order conferring the petitioner with party status. If the petitioner is not granted party status and some or all of the allegations in a communication of alleged misconduct become the subject of a disciplinary hearing, the notice of hearing shall inform the petitioner of his or her right to intervene in the proceeding, or shall include findings that the petitioner has forfeited this right by failing to cooperate with the previous board orders or investigatory requests.

Source. #9854, eff 1-25-11 (formerly Mhp 206.02)

Mhp 504.03 Docketing, Service of Notice, Public Notice.

- (a) The board shall assign each disciplinary proceeding a docket number, and serve the hearing notice upon all parties to the proceeding and the board's legal counsel in the civil bureau, department of justice. The hearing notice shall be served upon the respondent, and the petitioner, if any, by means of certified mail.
- (b) Service of all subsequent orders, decisions and notices issued by the board, including any amendments to the hearing notice, shall be served upon the parties, including any interveners, by regular mail.
- (c) Orders, notices, and decisions of the board, and motions, memoranda, exhibits, and other documents and data submitted to the board in a docketed case shall be kept in a docket file and made available for public inspection in the board's office except to the extent that confidentiality has been provided for by law.

Source. #9854, eff 1-25-11 (formerly Mhp 206.03)

Mhp 504.04 Intervention.

- (a) Motions to intervene shall state with particularity:
 - (1) The petitioner's interest in the subject matter of the hearing;
 - (2) Why the interests of the parties and the orderly and prompt conduct of the proceeding would not be impaired; and

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- (3) Any other reasons why the petitioner should be permitted to intervene.
- (b) Motions to intervene shall be granted if the petitioner has a substantial interest in the proceeding, the petitioner requested intervention in accordance with these rules, and if granting intervention will not prejudice a party or unduly delay the board's proceedings.
- (c) Once granted leave to intervene, an intervener shall take the proceeding as he or she finds it and no portion of the proceeding shall be repeated because of the fact of intervention.

Source. #9854, eff 1-25-11 (formerly Mhp 206.04)

Mhp 504.05 <u>Right to Counsel</u>. Parties and witnesses in disciplinary proceedings shall have the right to representation. Any representative of a party or witness shall first file a letter announcing the fact of representation at the earliest date practical. Requests for appointment of counsel shall not be entertained and the board shall have no responsibility for the legal expenses of any licensee, petitioner, intervener or witness.

Source. #9854, eff 1-25-11 (formerly Mhp 206.05)

Mhp 504.06 Ex Parte Communications. Once a disciplinary proceeding has been commenced, no party shall communicate with a participating member of the board concerning the merits of the case except upon notice to all parties and in accordance with the rules of this chapter. Nor shall any party cause another person to make such communications or otherwise engage in conduct prohibited by RSA 541-A:36.

Source. #9854, eff 1-25-11 (formerly Mhp 206.14)

Mhp 504.07 Prehearing Conferences.

- (a) At any time following the commencement of a disciplinary proceeding, the presiding officer, upon motion, or upon his or her own initiative, may request the parties attend one or more prehearing conferences pursuant to Mhp 207.07 when such a conference would aid in the disposition of a proceeding.
- (b) The board shall cause prehearing conferences to be recorded unless all parties wish to discuss possible settlement off the record. Matters agreed upon by all parties at a prehearing conference shall be reflected in an appropriate order.
- (c) Contested issues identified upon by the presiding officer at the time of the prehearing conference shall be reserved until the time of the disciplinary hearing.

Source. #9854, eff 1-25-11 (formerly Mhp 206.06)

Mhp 504.08 <u>Discovery and Disclosure</u>.

- (a) The board shall provide for the disclosure of any investigative report or other unprivileged information in the possession of the board, which is reasonably related to the subject matter of the proceeding.
- (b) Parties shall attempt to agree among themselves concerning the mutual exchange of relevant information. If these efforts prove unsuccessful, a party wishing to initiate discovery against another party, shall, by motion, seek leave to do so and shall identify the exact type of discovery requested.

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- (c) Discovery shall be ordered when the parties cannot adequately address specific relevant factual issues at the time fixed for the presentation of evidence, and addressing these issues at a subsequent time would place the requesting party at a material disadvantage.
- (d) At least 5 days before the hearing the parties and any intervenor shall provide to the other parties and intervenors:
 - (1) A list of all witnesses to be called at the hearing together with a brief summary of their testimony;
 - (2) A list of all documents and exhibits to be offered as evidence at the hearing; and
 - (3) A copy of each document or exhibit.

Source. #9854, eff 1-25-11 (formerly Mhp 206.08)

Mhp 504.09 Subpoenas.

- (a) [not adopted]
- (b) In disciplinary proceedings, a party requesting the board to authorize a subpoena shall attach a copy of the proposed subpoena to its motion. The requesting party shall be responsible for the service of the subpoena and payment of any applicable witness fee and mileage expenses.
- (c) Motions to quash or modify a subpoena shall be entertained from the person to whom the subpoena is directed, if filed within 7 days after service of the subpoena, or one day before the date specified in the subpoena for compliance therewith, whichever is later. The person to whom the subpoena is directed shall comply with the subpoena or any modification thereof, within the balance of time prescribed in the subpoena or within 3 days from the date of the board's order, whichever is later, unless the board expressly provides additional time to comply.
- (d) Should a person fail to comply with a subpoena issued pursuant to this section, the board shall take one or more of the following actions:
 - (1) Impose sanctions specific to any pending disciplinary proceedings or investigation, including, but not limited to, entry of a default judgment as to some or all of the pending issues which is adverse to the noncompliant party;
 - (2) Institute a separate investigation against any non-compliant individual who is subject to the board's jurisdiction; or
 - (3) Continue with the disciplinary proceedings and defer all, or part, of the subpoena enforcement issues.

Source. #9854, eff 1-25-11 (formerly Mhp 206.08)

Mhp 504.10 Evidence – Disciplinary Proceedings.

- (a) The evidentiary privileges recognized by the law of New Hampshire, but not the N.H. Rules of Evidence, shall apply to disciplinary proceedings under this chapter.
 - (b) All data which will reasonably assist the board arrive at the truth shall be admissible.
- (c) Oral testimony shall be allowed unless the board, upon a finding that written evidence would be more efficient and would not result in material prejudice, orders that some or all of the evidence be submitted in written form.

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- (d) If the board officially notices a fact, it shall so state, and permit any party, upon timely request, the opportunity to show the contrary.
 - (e) Witnesses appearing before the board shall testify under oath or affirmation.

Source. #9854, eff 1-25-11 (formerly Mhp 206.09)

Mhp 504.11 <u>Records of Disciplinary Proceedings</u>. The board shall cause an electronic or stenographic record to be made of hearings and prehearing conferences.

Source. #9854, eff 1-25-11 (formerly Mhp 206.15)

Mhp 504.12 Proposed Findings of Fact and Conclusions of Law.

- (a) Parties may submit proposed findings of fact or conclusions of law.
- (b) The presiding officer shall direct any party to submit proposed findings of fact or conclusions of law if the presiding officer believes they would be helpful in deciding the case. If such an order is issued, individual rulings upon such proposed findings or conclusions shall be included as part of any proposed or final decision or order issued.

Source. #9854, eff 1-25-11 (formerly Mhp 206.13)

Mhp 504.13 <u>Burden of Proof.- Disciplinary Proceedings</u>. A finding of licensee misconduct shall be based upon a preponderance of the evidence.

Source. #9854, eff 1-25-11 (formerly Mhp 206.10)

PART Mhp 505 DISPOSITION OF DISCIPLINARY PROCEEDINGS

Mhp 505.01 <u>Disciplinary Sanctions</u>.

- (a) When the board receives information indicating that a licensee has engaged in or is likely to engage in professional misconduct which poses an immediate danger to life or health, the board shall issue an order pursuant to RSA 330-A:30, which sets forth the alleged misconduct and immediately suspends the license for up to 90 days pending completion of a disciplinary proceeding on the specified issues.
- (b) Other than immediate license suspension authorized by RSA 330-A:30, the board shall take further action only:
 - (1) After prior notice and an opportunity to be heard has been granted to the licensee pursuant to Mhp 504; or
 - (2) Pursuant to an agreed upon settlement or consent decree.

Source. #9854, eff 1-25-11 (formerly Mhp 402.03)

Mhp 505.02 <u>Standards for the Selection of Sanctions</u>. Sanctions by the board shall be determined as follows:

- (a) The board shall select appropriate sanction(s) from the list in Mhp 503.06, choosing the sanction or combination of sanctions most likely to:
 - (1) Protect public health and safety;

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- (2) Prevent future misconduct by the licensee;
- (3) Take into account any acknowledgement of fault by the licensee and any cooperation by the licensee with the board's investigation of misconduct;
- (4) Correct any attitudinal, educational or other deficiencies which led to the licensee's misconduct;
- (5) Encourage the responsible practice of mental health; and
- (6) Demonstrate to the licensee and the public the board's intention to insure that its licensees practice in accordance with applicable law and the public welfare.
- (b) In determining which sanction or combination of sanctions to impose, the board shall:
 - (1) First determine the nature of the act or omission constituting the misconduct done by the licensee;
 - (2) Next determine whether the misconduct has one or more of the characteristics listed in (c) below; and
 - (3) Finally, apply the standards in Mhp 505.02 (a).
- (c) The characteristics shall be:
 - (1) The misconduct actually caused physical or mental harm to the client or another person;
 - (2) The misconduct had the potential to cause physical or mental harm to the client or another person;
 - (3) The misconduct repeated earlier misconduct done by the licensee, as determined by:
 - a. An earlier hearing;
 - b. An earlier settlement agreement predicated on the same misconduct by the licensee; or
 - c. An admission by the licensee.
 - (4) The misconduct was not the first misconduct by the licensee, as determined by:
 - a. An earlier hearing;
 - b. An earlier settlement agreement predicated on the same misconduct by the licensee; or
 - c. An admission by the licensee; and
 - (5) The misconduct was intentional rather than the result of negligence or inadvertence.

Source. #9854, eff 1-25-11

Mhp 505.03 Board Actions Taken After Disciplinary Action.

(a) When the board receives notice that a licensee has been subjected to suspension or revocation of a license or registration, similar to one issued under this chapter, in another jurisdiction and not

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reinstated the board shall issue an order directing the licensee to demonstrate why reciprocal action should not be imposed in New Hampshire.

(b) Copies of board orders imposing disciplinary sanctions and copies of all settlement agreements or consent decrees shall be sent to the certifying/licensing body of each state in which the licensee is certified/licensed and to such other entities, organizations, associations, or boards as are required to be notified under the applicable state or federal law or to anyone who requests a copy.

Source. #9854, eff 1-25-11

Mhp 505.04 Imposition of Fines.

- (a) Fines and penalties shall be assessed by the board upon a finding of licensee misconduct In accordance with the considerations of Mhp 505.02.
 - (b) Fines, if imposed, shall not exceed the following amounts
 - (1) When no violation of the same type has occurred within the 5 years preceding the board's notice to the respondent, the fine assessed shall not exceed \$500 per offense;
 - (2) When a single disciplinary infraction of the same type has occurred within the 5 years preceding the board's notice to the licensee, the fine assessed shall not exceed \$1000 per offense.
 - (3) When more than one disciplinary infraction of the same type has occurred within the 5 years preceding the board's notice to the licensee, the fine assessed shall not exceed \$2000 per offense.
- (c) When in the case of a continuing violation, a separate fine up to \$200 shall be assessed for each day the violation continues not to exceed \$2000.

Source. #9854, eff 1-25-11 (formerly Mhp 402.04)

Mhp 505.05 Voluntary Surrender When Misconduct Allegations are Pending.

- (a) A licensee who wishes to surrender his/her license as part of a settlement of pending misconduct allegations shall make a written settlement offer to the board before the close of the record in a disciplinary hearing.
 - (b) Any settlement agreement reached under (a), above, shall include the following concessions:
 - (1) That the license surrender has occurred in settlement of pending disciplinary charges; and
 - (2) That the pending disciplinary allegations shall be issues to be resolved in any future application the licensee may submit in New Hampshire without regard to any time-related defenses, which may otherwise be applicable.
- (c) A licensee who reapplies for licensure in New Hampshire after a voluntary surrender shall meet all of the requirements then in effect for new applicants.
- (d) The fact of voluntary surrender and the terms of any settlement agreement or consent decree pertaining thereto shall be distributed to relevant certifying/licensing authorities and professional societies in the same manner as a final decision containing a specific finding of professional misconduct.

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(e) The board shall investigate the surrender or non-renewal of a license based upon the licensee's professional conduct while the license was still in effect. Such investigations and proceedings shall be handled in the same manner as other disciplinary investigations and proceedings.

Source. #9854, eff 1-25-11 (formerly Mhp 402.05)

APPENDIX

| RULE NUMBER | STATUTE IMPLEMENTED |
|---------------------|---------------------------------------|
| | |
| Mhp 501.01-502.01 | RSA 330-A:10, V-X, XVIII |
| Mhp 502.02 | RSA 330-A:10, XI, XVIII; RSA 330-A:15 |
| Mhp 503.01 – 503.07 | RSA 330-A:28 |
| Mhp 504.01 – 504.13 | RSA 330-A:29 and RSA 541-A:16, I(b) |
| Mhp 505.01 – 505.03 | RSA 330-A:29 and RSA 541-A:35 |
| Mhp 505-04 – 505.05 | RSA 330-A:27 and RSA 541-A:35 |

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